

**IN THE CONSISTORY COURT  
OF THE DIOCESE OF MANCHESTER**

**RE ST JAMES GORTON**

**JUDGMENT  
delivered on 30 October 2015**

1. By their application for a faculty dated 2 December 2014 Revd John Faraday, the Rector, and Mr Hedley Richardson and Mr Neville Tinsley, the Churchwardens, [together described as `the Petitioners`] seek a faculty to:

`excavate the top soil (to a maximum depth of 12 inches) in an area of St James Gorton churchyard measuring eight foot square which surrounds and includes the grave of the late `Martha Bowring` (private grave number 550 in the said churchyard) without disturbance to any of the remains interred in the said grave.`

2. The proposed works will be undertaken without cost and will be supervised by an archaeologist, namely Mr Ryan Forde.

3. At an extraordinary meeting of the Parochial Church Council [`the PCC`] on 7 December 2014 at which it was stated that the faculty sought permission to carry out `minor excavation works ... in response to the request of a group investigating the disappearance of one of the Moors Murders victims, Keith Bennett`, that the `work will be supervised by a fully qualified archaeologist and will be attended by the minister & churchwarden` and that `the police will be informed of any significant finds`, the PCC unanimously voted to support the application for the faculty.

4. Given the nature of the application, it was not necessary for the Diocesan Advisory Committee [`DAC`] to consider the proposed works.

5. There was a Public Notice of the proposed works displayed between 23 November 2014 and 21 December 2014. Such Public Notice gave rise to no objections.

*Background*

6. On 25 June 2014 I received an email from Mrs Erica Gregory who is part of a group of people who are carrying out investigations into the murder of children in the 1960s by Ian Brady and Myra Hindley. She had contacted some or all of the Petitioners because she believed that a hessian bag may have been buried by Ian Brady in 1963 or 1964 in the grave of Martha Bowring at St James Gorton and had been advised that she needed to contact me. Although the police had been informed of this belief, there had apparently been no excavation of the grave by the police.

7. By an email sent on 26 June 2014 I responded, noting her email and earlier emails to others about objects which were possibly buried by Ian Brady in a grave at St James Gorton, and stating that, although I was unclear about precisely what she wished to do, she should not interfere in any way with any grave at St James Gorton without first obtaining my permission to do so, that such permission could only be obtained by means of a faculty and that if such an application were made attempts would have to be made to contact the nearest relatives of the person interred in the grave to ascertain whether they objected to what was proposed. I added that 'the position might be different if I were to receive a request from the police.'

8. I then received a handwritten but undated letter from Mrs Gregory but by my email sent on 7 July 2014 I advised that the position remained the same as in my earlier email, that it was not possible to deal with these matters informally and that an application for a faculty should be made via the Diocesan Registry.

9. On 23 July 2014 Mrs Gregory sought advice from the DAC although the DAC did not give any advice as it was inappropriate for it to do so.

10. In her letter dated 23 July 2014 Mrs Gregory explained some of the background to the group's 'investigations'. They had searched other areas and she listed objects which had been found. She herself had investigated the poetry and books which Brady had read and observed that he was influenced by politics and Irish history. She stated that the grave concerned was that of Martha Bowring. She did not believe that it was a coincidence that:

[1] Sir John Bowring, a politician, died on 23 November 1872, the same date that Brady and Hindley's second known victim, John Kilbride, had died.

[2] Edgar Alfred Bowring, the son of Sir John, had translated Goethe's poetry and that Goethe had written a book entitled '*The Sorrows of Young Werther*' which 'starts off on 16 June', the same date that Brady and Hindley's third known victim, Keith Bennett, had died.

[3] Martha Bowring had been born in Endensor [in fact Edensor] in Derbyshire and at St Paul Endensor [in fact St Peter Edensor], is the grave of the sister of J F Kennedy who himself died on 22 November 1963, the day before John Kilbride had died.

11. This letter was forwarded to the Diocesan Registry and at my direction the Diocesan Registry replied by letter dated 6 August 2014 stating that a statutory fee was payable and that in any application the applicant was required to explain in unambiguous terms precisely what the applicant wished to do, why he/she wished to do it and whether any attempt had been made to contact the Bowring family. Moreover, given that there had been some involvement with the Greater Manchester Police, the Registry indicated my view that it might be much easier if I was to receive a request from the relevant officer.

12. By letter dated 12 August 2014, in response to the request for further information, Mrs Gregory stated:

'A. ... Ian Brady was seen burying a hessian sack in 63/64. The incident was reported to the Church at the time but nothing was done. ... We hope to find the

hessian bag as an item of this kind was found by us on Greenfield Moor/Farm area containing objects. These objects are a link to Brady and Hindley.

B. The Bowring grave has never been tended as the Church has confirmed, ...The grave is an old one almost 200 years old. We do have our archaeologist. The dig will be no more than the area around which is church ground and soil. Brady never buried deep.

C. I did send an email to DCI Clare Carr. I have not heard anything back. I do know as a cold case. The search is being done by ourselves. The police cannot get involved until we find body or DNA of human source. Objects, photographs and any finds I send her to file. So they keep a file on us and what we are doing in the 3 years of our search.

The hessian bag in question may no longer be there and we need to confirm this, as what we are finding is leading onto another clue.`

**13.** I considered the then available documentation and gave directions. By letter dated 24 October 2014 the Diocesan Registrar informed Mrs Gregory that I had directed that she must file a Petition which should:

`(a) explain precisely what you wish to do: in particular to what depth and what width from the sides of the grave is it sought to `dig the soil` and over what period of time;

(b) explain precisely why you wish to do this. Although you have referred to the possibility of finding a hessian sack or bag which you believe that Brady buried in the grave, you must explain:

(i) the basis for your belief;

(ii) why such finding would be significant and what might be the consequences if such sack or bag was found;

(c) identify all persons who are buried in the `Bowring grave` and state what attempts have been made to contact the Bowring family;

(d) state whether your proposal is supported by any resolution of the Parochial Church Council; and

(e) state, in so far as is known to you, why an application to this effect has not been made by the Greater Manchester Police.`

**14.** The application for a faculty was made on 2 December 2014 but in the name of the Petitioners rather than Mrs Gregory. I do not know why this procedure was adopted rather than Mrs Gregory making the application herself, particular because it exposes the Petitioners to any liability for costs ordered by the court. However, since it is Mrs Gregory who is in effect making this application I have regarded her as the true applicant and all communications to the Petitioners have been copied to her.

15. On 31 December 2014 Mrs Gregory wrote another long letter to the Diocesan Registry and it was forwarded to me. Her letter stated that there had been previous searches and that various items had been found including sheep bones and a shovel not far from where three bodies had been found together with other items on Saddleworth Moor. As to the proposed excavation at St James Gorton she stated:

`The basis of the dig is to determine whether a report made to Manchester Police by an ex resident in 2011 is indeed important to the investigation myself and small group have been involved in since November 2011. ...

The hessian sack is important to the Bowring grave at St James. To the left of this grave is another with the name Margaret Hindley died 17 June 1923, approx 20 feet to the left. As far as we know, no relative, but date is the day after Keith Bennett died. ...

By in depth research I have found that all areas Brady used link to uprisings or dates that are important to the murders. He marked the dates to the Industrial Revolution, Corn laws, Irish uprisings, Peterloo Massacre ...

If Brady did leave a sack here, it could be something he took from the children, a marker even. ... We have to see if the hessian bag or sack is still at this grave. We are still searching the area as best we can. ... The police have all our information, They did not ask to search the grave. I asked my contact why and reasons for this. She came back and stated she is no longer on the Moors case. This is making us wonder why. I was told that money was the reason by another Detective.`

The letter concluded by referring to the fact the deaths of Pauline Read, John Kilbride, Keith Bennett, Lesley Ann Downey and Edward Evans took place on the same dates as the French revolution, the hanging of the `Manchester Martyrs` at Manchester, the battle of Waterloo, a Russian revolt and the death of Charles Parnell.

16. Accordingly by letter dated 6 February 2015 addressed to Mr Richardson, on behalf of the Petitioners, and copied to Mrs Gregory, the Diocesan Registrar informed him that I made the following further directions, namely

[1] The Petitioners and/or Mrs Gregory should explain why the finding of the Hessian bag or sack would be significant.

[2] In particular:

[a] having seen the article in the *Mirror online* do the Petitioners and/or Mrs Gregory rely on the reported evidence of Marilyn Timberlake which suggests that she saw two people, one of whom she identified as Ian Brady, carrying a heavy hessian sack through the graveyard of St James Gorton, that `the sack was big enough to hold a body` and thereafter she saw the digging one of the graves up and then burying the sack in the grave.`

[b] if yes, please produce a statement from Marilyn Timberlake.

[3] The Petitioners and/or Mrs Gregory should identify all those interred in the Bowring grave.

[4] The Petitioners and/or Mrs Gregory should identify what attempts have been made to contact the Bowring family. Although the grave may have been untended for many years, the Bowrings seem to have been a very prominent family and it may be possible to trace the descendants of those interred in the grave.

[5] The Petitioners and/or Mrs Gregory should contact the police [if necessary by writing to the Chief Constable] and state that the Chancellor has directed them to write to the police to ask whether:

[a] following Marilyn Timberlake`s report to them, as recorded in the *Mirror online*, they made any attempts to examine, by x-ray or like technology, the contents of the Bowring grave and if, what were the results.

[b] they are prepared to support the application on the basis that it might assist with their inquiries in relation to offences committed by Ian Brady.

If the police fail to respond to such contact, without further order the Chief Constable of the Greater Manchester Police will be given special notice of this application.

[6] Re paragraph 8(b) of the Petition (which relates to advice received in respect of any archaeological significance of the proposed works), please identify what advice has been received.

[7] The Petitioners and/or Mrs Gregory should state whether it is proposed that such excavation of the grave will be carried out by Mr Ryan Forde alone.

17. Such directions prompted a further letter from Mrs Gregory dated 2 March 2015 which may be summarized thus:

[1] She enclosed a letter from the Greater Manchester Police dated 19 February 2015 acknowledging receipt of her letter dated 11 February 2015, saying that it had been forwarded to the relevant department and that she would be contacted in due course.

[2] A grave search had revealed that Martha Bowring was buried alone. Her husband had predeceased her and was buried in Edensor. They had no children.

[3] She enclosed a letter from Mr Tommy Rattigan who avoided being a victim of Brady and Hindley. He had gone to their home in 1963 and had noticed `what was either rolled up hessian sacks or a folded up sheet of hessian` in the house and that a motorbike had been covered over with the same hessian material. Moreover on another occasion he had seen Brady pushing a wheelbarrow with what appeared to be a couple of hessian potato sacks.

[4] She enclosed a letter from Christine Hamlett-Walsh who carried out research about Keith Bennett and had exchanged letters with Brady.

[5] She had been unable to contact Mrs Timberlake.

**18.** In such circumstances by letter dated 18 March 2015 addressed to Mr Richardson, on behalf of the Petitioners, and copied to Mrs Gregory, the Diocesan Registrar informed him that I made the following further directions, namely;

[1] having considered it expedient that I should deal with this application on the basis of written representations I invited Mrs Gregory to consider whether she wished to consent to such a course.

[2] Mrs Gregory had liberty to make any further written submissions in support of her application.

[3] The Greater Manchester Police were informed that a substantive reply was required from them before 31 May 2015 and such would be taken into account by me in making my determination.

**19.** On 24 March 2015 Mrs Gregory consented to my determining her application on the basis of written representations.

**20.** There was no response from the Greater Manchester Police.

**21.** On 6 May 2015 the Diocesan Registry received a handwritten statement from Mrs Marilyn Timberlake. She describes that in 1963, when she was aged about 14:

‘I was in bed in the front bedroom with my sister ... . We were laughing and talking when there was a light reflecting on the wall from outside and not from the street light. I got out of bed and saw 2 people, one carrying a Hessian coal sack, on his back, the one behind was carrying the torch. I called my sister over and also my mum out of her room, and we all watched for a while as they were messing about with a grave and putting the sack in. ... I did talk to Rev Lewis in the next few days but he just listened and walked away. It was forgotten then until the publicity and arrests etc until it all came out in 65-66 and the eventually [sic] of not finding Keith Bennett had led me to believe that what we watched on that night in 1963/64 was Brady putting his body in that grave. ... I am as convinced today that he [Keith Bennett] or someone else buried by Brady + Hindley are in that grave.’

**22.** It may be noted that in the *Mirror online* it was reported in 2011 that Mrs Timberlake said:

‘In the middle of the night I was woken up by a torch light flashing through the bedroom window. I looked up and saw two people in dark clothing carrying a heavy hessian sack through the graveyard. I saw them stop near a grave. I woke my sister up, saying Come and look at this. We were both watching when my mum came in. The three of us sat watching them for about three-quarters of an hour. It looked like they were digging one of the graves up and then burying the sack in the grave. Everyone knew each other in that area at the time so I recognized one of them as Brady.’

23. Although there are factual differences between both accounts, each account confirms that Mrs Timberlake notified the police and the *Mirror online* records that Mrs Timberlake stated `the police told me they are taking [what she had said] seriously and said that they would use some sort of x-ray machine to see what was buried there rather than dig up the churchyard.`

24. On 12 October 2015 Mrs Gregory emailed me details of other findings elsewhere and stated, inter alia:

`The period included the hanging of the Irish martyrs, on John Kilbride`s death 23 November 63. All children have as [sic] uprising as some sort on their day of murder. Keith is Waterloo, Leslie Ann Russian Decembrist, and Pauline French Revolution.`

*My determination*

25. It is a matter of record that after a trial Brady and Hindley were convicted of the murder of Edward Evans and Leslie Ann Downey and that Brady was also convicted of the murder of John Kilbride. Subsequent to the trial both confessed to the murder of Keith Bennett and Pauline Reade but there was no further trial as it was not deemed to be in the public interest.

26. Evans` body was found at the time of the arrest of Brady and Hindley and before their trial the bodies of Lesley Ann Downey and John Kilbride were found buried on Saddleworth Moor. After their trial the body of Pauline Reade was similarly discovered. The body of Keith Bennett has never been found.

27. Although it is now over 50 years ago since these murders were committed I have no doubt that it is highly desirable that the body of Keith Bennett should, if possible, be found. To that extent I can understand why the group of which Mrs Gregory is a member are anxious to make such enquiries and carry out such investigations as they believe may assist in that objective.

28. The proposed works seek my permission to `excavate the top soil (to a maximum depth of 12 inches) in an area ... measuring eight foot square which surrounds and includes the grave of the late `Martha Bowring``.

29. Although I was initially concerned that notice should be given of the proposed works to the surviving relatives of Martha Bowring who died on 13 February 1898, I am persuaded by what Mrs Gregory says that there are probably no surviving relatives of Martha Bowring to whom such notice could be given.

30. Although I accept that the proposed works are unlikely to interfere with the interred remains of Martha Bowring I have no doubt that for me to grant a faculty I should be satisfied that there must be some legitimate purpose justifying the proposed works because it involves the disturbance of a grave.

31. It is not suggested by Mrs Gregory that Brady buried the body of Keith Bennett in Martha Bowring`s grave. It is only suggested that he may have buried a hessian sack in the grave.

**32.** Accordingly from the outset of Mrs Gregory's communications with myself or the Diocesan Registrar I have been anxious to establish what purpose would be served by the proposed works, and in particular by the finding of any hessian sack.

**33.** In her dated 12 August 2014 Mrs Gregory sought to establish the purpose to be served by the proposed works on the basis that 'Ian Brady was seen burying a hessian sack in 63/64. ... We hope to find the hessian bag as an item of this kind was found by us on Greenfield Moor/Farm area containing objects. These objects are a link to Brady and Hindley,' She conceded that 'the hessian bag in question may no longer be there and we need to confirm this, as what we are finding is leading onto another clue.'

**34.** I do not think that such an explanation would justify my granting a faculty for the proposed works. Even if a hessian bag had been buried in or about the grave of Martha Bowring, there is no means of knowing whether it is still there 50 years later [as Mrs Gregory herself concedes] and in any event I do not understand what significance the finding of a hessian sack could have or where this might lead Mrs Gregory's investigation. It would just be another finding which I do not accept would be of any real significance.

**35.** In her letter dated 2 March 2015 Mrs Gregory enclosed a letter from Mr Tommy Rattigan who had seen at the home of Brady and Hindley 'what was either rolled up hessian sacks or a folded up sheet of hessian' in the house, that a motorbike had been covered over with the same hessian material and that he had seen Brady pushing a wheelbarrow with what appeared to be a couple of hessian potato sacks.

**36.** I do not think that the use of such hessian sacks or material was uncommon 50 years ago and that does not persuade me that it was probable that Brady buried a hessian sack in Martha Bowring's grave in 1963.

**37.** Finally Mrs Gregory relies on the statement of Mrs Timberlake. I have set out the material parts of such statement in paragraph 21 above and have also set out in paragraph 22 above the account she seemingly gave to the *Mirror online*.

**38.** I am sure that in both accounts [in 2011 and 2015] Mrs Timberlake was doing her honest best to recall events which had taken place more than 50 years ago when she was a young woman. However I am bound to observe that even contrasting these two recent accounts there are obvious contradictions. Firstly, in 2015 Mrs Timberlake describes herself and her sister being awake when they saw the light reflecting on the wall from outside : in her 2011 account she describes being awoken by the torch light and waking up her sister. Secondly, the 2011 account alone describes the sack as heavy. Thirdly, there is a difference between 'messaging about with a grave' [2015 statement] and 'digging one of the graves up' [2011 account]. Fourthly, only the 2015 statement sets out Mrs Timberlake's belief that Keith Bennett or someone else is buried in the grave which is not suggested by Mrs Gregory.

**39.** After the report in the *Mirror online* Mrs Timberlake stated that the police told her that they were taking the matter seriously and referred to the fact that they would use some sort of x-ray machine to see what was buried there. We do not know whether they did so or not. However I am satisfied that the police have had notice of this application and have declined to respond to it.



**40.** I cannot but be influenced by the fact that the Greater Manchester Police have declined to comment on Mrs Gregory's application, let alone support it. If the police thought that this application *might* produce evidence which would be material to these murders I have no doubt that they would have supported it. Given that the police undoubtedly will have been informed of all the matters raised and relied upon by Mrs Gregory, I am bound to conclude that their unwillingness to support this application, where the works would be undertaken by others without any costs or resource implications for the police, is an important factor which I should take into account.

**41.** It should be remembered that in my first email to Mrs Gregory I observed that the position might be different if I were to receive a request from the police and in the Diocesan Registry's letter dated 6 August 2014 I had indicated that it might be easier if I had received a request for a faculty from the Greater Manchester Police.

**42.** On the facts of this case I am driven to conclude that the matters raised by Mrs Gregory do not justify the excavation of the top soil, albeit only to a maximum depth of 12 inches in the area surrounding and including the grave of the late Martha Bowring.

*Conclusions*

**43.** It follows that for all the reasons set out above I refuse to grant the faculty sought.

**44.** In accordance with the practice of the court I order that the Petitioners pay the costs of and occasioned by this application.

GEOFFREY TATTERSALL QC

Chancellor of the Diocese of Manchester