

ways—either by burial or cremation. She elected to dispose of them by burial, and eighteen years afterwards she asks the Court to assist her to exercise the second alternative—namely, that of cremating them. But the exercise of the second alternative is in excess of the power intended to be conferred on her by her husband, who might, from sentiment or otherwise, reasonably have objected to his remains being thus dealt with. In the next place by ecclesiastical as well as by common law, the body of every person dying in this country, with certain exceptions, is entitled to Christian burial (see Lord Stowell, *Gilbert v. Buzzard*, 2 Hagg. Con. Rep. 343; *Regina v. Stewart*, 12 A. & E. 773). Can an executor, to gratify his own fancy without the deceased's sanction, cremate the body of his testator and so deprive it of being buried in the state and condition contemplated by this rule of law? In the opinion of the Court he would not be warranted in so acting, and if this be so the Court would not be justified in giving him the aid of its process to enable him so to act unless it were satisfied that it would be thereby assisting him in giving effect to the wishes of the deceased. But the Court, upon the evidence before it, is not satisfied that the granting of this application would accord with the intentions of Colonel Dixon. Lastly, one result of being buried in consecrated ground is that the site is under the exclusive control of the Ecclesiastical Courts, and no body there buried can be moved from its place of interment without the sanction of a faculty, to be granted upon the application of the executors or members of the family for reasons approved of by the Court, or upon the application of other parties upon the ground of necessity or of proved public convenience, and then only for reinterment in other consecrated ground. The Court is of opinion that it would not be justified in making a departure from this rule, which has now existed for centuries, for the purpose of enabling a body to be removed after burial for cremation. When burial in consecrated ground and cremation are both desired, cremation should precede and not follow burial. The burial service does not contemplate cremation. But where a body has been consumed in a fire it has been customary to collect the ashes and to bury them in a churchyard, accompanied with the use of the Office for the Burial of the Dead, and there does not appear to the Court to be any legal objection to the same course being followed where there has been a previous cremation in pursuance of directions left by the deceased. With every desire to accede to the wishes of Mrs. Dixon, the Court is bound to refuse to grant the faculty prayed.