

CRYONICS UK

(A working name of Human Organ Preservation Research Trust, charity number 1001750)

RESEARCH REPORT

Field(s): Law, cryonics
Title: Implications of “Helen’s Law” for cryonics
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1 Disclaimer

- 1.1 The contents of this document are the mere opinions of the author(s) and do not constitute legal advice, nor do they give rise to a solicitor/client relationship. Independent legal advice should be taken by anyone intending to rely on any of the contents of this document.
- 1.2 Cryonics UK’s legal research efforts are aimed at gaining an understanding of the law as it relates to the charity’s objects. Cryonics UK does not have a policy of campaigning to change any aspect of the law and any implications to the contrary in this document are unintended.

2 Introduction

- 2.1 In 1989, Ian Simms was convicted of the murder of Helen McCourt. The location of the body was never discovered or revealed by the killer. The victim’s mother, Marie McCourt, subsequently lobbied the government to introduce a law preventing parole being granted to convicted murderers who refuse to reveal the location of bodies of their victims.
- 2.2 As a result, on 15 October 2019 the Prisoners (Disclosure of Information About Victims) Bill 2019 (informally known as ‘**Helen’s Law**’)¹ was introduced to Parliament but its passage was halted as the result of Parliament being dissolved on 6 November 2019 in advance of the 12 December 2019 general election.
- 2.3 Cryonics UK has been made aware of a petition on change.org calling for Helen’s Law to be re-introduced to Parliament and has been asked what implications, if any, there could be for cryonics. In particular it has been asked to consider whether any implications could arise from “*automatically applying the following rarely-used common law offences in murder trials without a body [as in the case of R v Hunter, 1974]: preventing the burial of a corpse and conspiracy to prevent the burial of a corpse, disposing of a corpse, [and] obstructing a coroner*”.²
- 2.4 This report will consider in turn the contents of Helen’s Law, and the principles established by *R v Hunter*.³

3 Helen’s Law

- 3.1 Prior to the dissolution of Parliament, the bill had only reached the first reading stage of the House of Commons. This report examines the bill as originally introduced but this is likely to differ from any final version of the bill, if reintroduced.
- 3.2 The first thing to note is that the bill does not set out to achieve the petition’s objective of providing an outright ban on parole being granted. Rather, it provides that “[*if*] the Parole

1 Prisoners (Disclosure of Information About Victims) HC Bill (2019-20) [4]

2 <https://www.change.org/p/rt-hon-theresa-may-mp-introduce-helen-s-law>

3 *R v Hunter* (Leslie) [1974] Q.B. 95 (1973)

Board believes that the [life] prisoner has information about where, or how, the victim's remains were disposed of [...] which the prisoner has not disclosed [then] the Parole Board must take into account the prisoner's non-disclosure and the reasons [...] for the prisoner's non-disclosure".⁴ Similar provisions relate to prisoners convicted of manslaughter, and to non-disclosure of the identity of a child who is the subject of an indecent image.⁵

3.3 The bill as introduced does not propose any other significant measures nor does it implement the petition's objective of automatically applying the principles of *R v Hunter*.

4 R v Hunter

4.1 *R v Hunter* is a case worth examining regardless of any potential application to parole cases via a future reintroduction of Helen's Law.

4.2 The case was one in which the defendants were playing with a girl in a field, as the result of which the girl was strangled with her own scarf and died. The defendants were convicted among other things of conspiring to prevent the burial of a corpse, having hidden the body under a pile of paving stones where it remained undiscovered for four months. The defendants appealed but the conviction was upheld by the Court of Appeal.

4.3 The defendants argued "*that the offence of preventing the burial of a corpse was unknown to English law save where there was a duty to bury; and that the object of the conspiracy was not to prevent burial but to conceal the corpse*".⁶

4.4 Giving judgment, Cairns L.J ruled that preventing a burial is indeed a crime regardless of whether or not there was a duty to bury or whether or not the object was to prevent burial:

4.4.1 "*conspiracy to prevent the burial of a corpse is not, so far as this court is aware, a charge that has ever been laid in modern times. It is, however, stated in Russell on Crime, 12th ed. (1964), p. 1420, that to prevent the burial of a dead body is an indictable misdemeanour and the authority cited is the unreported case of Rex v. Young referred to in Rex v. Lynn (1788) 2 Term Rep. 733 . We see no reason to suppose that Russell is wrong in concluding that this is still an offence.*";

4.4.2 "*If it is a crime for the person responsible for burial to prevent it, there is no reason for regarding the act of a stranger in preventing burial as any less reprehensible. We think that in this connection burial means lawful and decent burial. Clearly a crime would not be committed if a body were cremated, cremation now being authorised by the Cremation Act 1902. But if a decent burial is prevented without lawful excuse, we consider that this is an offence. If it is an offence to prevent burial, then it is an offence to conspire to prevent that burial.*";

4.4.3 "*[...] it is said that there is nothing to suggest that the prevention of burial was in the minds of the defendants. In our view the judge's direction that if the defendants agreed to conceal the body and the concealment in fact prevented burial, then the offence was made out, although prevention of burial was not the object of the agreement, was a correct direction on law.*"⁷

4.5 A superficial analysis may lead one to conclude that the act of cryopreservation could amount to a prevention of burial. After all, despite the fact that the cryotechnician neither has a duty of burial nor has the prevention of burial as his objective, his actions do in fact prevent burial, and this would appear sufficient to result in the offence being committed.

4.6 This analysis does not hold up to closer examination however. Arguments can be made in favour of the cryotechnician that the prevention of burial would not be "without lawful excuse":

4 Prisoners (Disclosure of Information About Victims) HC Bill (2019-20) [4] cl 1(1)

5 *ibid* cl 2(2)

6 *R v Hunter (Leslie)* [1974] Q.B. 95 (1973) 97

7 *ibid* 98

- 4.6.1 It will be clear from the facts surrounding a cryopreservation that the cryotechnician is carrying out the wishes of the patient, and this can be further supported by keeping records in writing which illustrate this fact such as contracts, letters of intent, and powers of attorney granting the right to possession of the body;
- 4.6.2 Jackson J found in the case of *Re JS* that “[cryonics] is not regulated by the statute and that accordingly the [Human Tissue Act 2004] currently has no remit”⁸ and “it does not appear that an offence would be committed in this case; in other words, [the act of cryopreservation] does not seem to be illegal”⁹; and
- 4.6.3 In *Hipkiss v Charity Commission* it was stated “that cryopreservation is a lawful activity and one for which there is clearly some level of demand. In these circumstances, we regard it as being for the public benefit in the first sense that charitable research into cryonics and cryopreservation, including the development of principles of good practice in the conduct of cryopreservation, is undertaken, and that it is a good thing.”¹⁰

5 Conclusion

- 5.1 Helen’s Law has been receiving a fair amount of media attention recently. However it is unclear at this stage whether or not it will be reintroduced to Parliament and if so, in what form.
- 5.2 The bill as originally introduced does not appear to have clauses which are of any relevance to cryonics.
- 5.3 As noted in the petition, the media, and the judgment, modern applications of *R v Hunter* are rare. In this author’s opinion it is highly unlikely that the charge of prevention of burial would ever be brought against a cryotechnician.
- 5.4 In the unlikely event of a charge being brought, the prosecution would struggle to successfully argue that any prevention of burial was without lawful excuse.
- 5.5 It is therefore the conclusion of this report that neither Helen’s Law nor *R v Hunter* contain any noteworthy implications for cryonics.

8 Re JS (A Child) (Disposal of Body: Prospective Orders) [2016] EWHC 2859 (Fam) [15]

9 *ibid* [16]

10 *Hipkiss v Charity Commission for England and Wales* [2018] 8 WLUK 229 [120]