

In the Matter of Sydney Clement Levy (Deceased)

JUDGEMENT

1. This was a petition by Silvano Clement Levy, son of the late Sydney Clement Levy, to dis-inter the remains of his father, on a temporary basis, in order that repairs could be carried out to the vault in which the remains of his father rested. The petition arose because the vault was flooded and could not decently be used for any other interment and because the casket in which the remains are contained was immersed in the water with which the vault was flooded.
2. Whilst he was alive the family of Sydney Clement Levy arranged for the purchase of three grave plots in St Andrews' Cemetery in Jesmond, Newcastle upon Tyne and the construction of a vaulted chamber in which he and other members of the family would be interred. On the day of the funeral of Sydney Clement Levy it was discovered that there had been an ingress of water into the vault, due to some fault in the construction or lining of the vault. It was impossible to deal with the problem on a long term basis on the day of the funeral, which proceeded, after the water had been bailed from the vault and with Mr Levy's casket sealed in a plastic covering to prevent it being damaged by any further water which might find its way into the vault.
3. Subsequent to the funeral the petitioner contacted the monumental mason who had been responsible for the construction of the vault in order to seek to remedy the situation. The petitioner claims that he was repeatedly put off by the individual concerned, causing significant delay and ultimately had to seek assistance from other firms. I have no reason whatsoever to doubt what the petitioner says but, as I have not heard a response from the firm and individual concerned and as it is not necessary to make any finding in relation to the matter, I neither name the individual nor make any finding as to the cause of the delay.
4. Prior to seeking this faculty the petitioner had commissioned investigative works and it was ascertained that the lower portion of the vault was flooded and that the casket of the late Sydney Clement Levy was within that flooded area, although protected by its plastic covering. Arrangements had been

made and agreed with another firm of monumental masons, an undertaker and Newcastle City Council - the burial authority involved - that, subject to the grant of a faculty, the casket was to be removed from the vault, taken by private ambulance to a funeral director's premises, where it would be hosted in refrigerated conditions, whilst a professional building firm carried out repair works to ensure that the vault was rendered waterproof. Following the repairs it was arranged that the casket would be returned to the vault and re-interred and the vault sealed with concrete slabs and the memorial ledger slab which had previously been in place, replaced.

5. By the time of the petition, in November 2017, there was some urgency in relation to the situation as the petitioner's mother is of advanced years and somewhat frail. I caused information to be sought and an assurance given by the firms of monumental masons and undertakers involved as to the arrangements and I was entirely satisfied that proper steps had been taken and that everything was in place for the seemly removal and storage in proper conditions of the casket and remains of Mr Levy, the repair of the vault and the proper re-interment of the casket and remains. I was further satisfied that this was a wholly proper and appropriate application and that it would be proper to grant a faculty. I accordingly gave the Directions annexed hereto and granted a faculty for to temporary dis-interment and re-interment of the remains of Mr Levy.
6. This was a case in which I was entirely satisfied that the grant of a faculty was appropriate. It is quite different from any petition for an exhumation which I have encountered before and arose not from a mistake being made or from any change of mind on the part of the family of the deceased but, on the contrary, from a desire to achieve what had always been intended in the creation of a family vault and the respectful interment of the caskets and remains of family members. Any refusal to grant a faculty would have resulted in the casket of the late Mr Levy remaining immersed in water and have prevented the interment of any other family member within the vault.
7. Because of some complications which arose in relation to the repairs to the vault. which have been hindered by adverse weather conditions, it has not

been possible to complete the entire operation within the time scale originally envisaged and I have granted an extension of three months for the completion of the works to the vault and the re-interment of the casket and remains of Mr Levy.

Euan Duff (Chancellor)

23 March 2018.