CHAPTER cviii.

An Act to authorise the sale of the site of the Ebenezer Chapel and the burial ground and schoolrooms attached thereto (all in the city of Birmingham) and the application of the proceeds of sale thereof and for other purposes. [31st July 1931.] A.D. 1931.

WHEREAS by an indenture of the twenty-first day of November one thousand eight hundred and sixteen duly enrolled in the Court of Chancery the twenty-third day of December one thousand eight hundred and sixteen made between John Dickinson Charles Glover and Thomas Lowe of Birmingham in the county of Warwick gentlemen of the one part (hereinafter called "the vendors") John Angear iron founder John Butler brass founder William Brunton engineer Isaac Carter plumber Thomas Fiddian merchant William Gammon watchmaker George Goodwin gunmaker Rice Harris glass manufacturer Edward Jones brass founder John Lilley plater William Leonard the younger sword cutler Samuel Munslow gilder and William Robbins grocer all of Birmingham aforesaid of the other part (hereinafter called "the Trustees") the vendors granted bargained and released for due consideration therein set forth to the Trustees a piece of land situate on the south side of and fronting to a lane or street in Birmingham called Steelhouse Lane then containing in the whole two thousand one hundred and fifty-five square yards or thereabouts all as in the said indenture more particularly

A.D. 1931. described and delineated on a plan on the back thereof and also a building meeting house or chapel called or intended to be called Ebenezer Chapel and all schoolrooms then erected on part of the said piece of land and all rights liberties privileges easements and other rights whatsoever over and appertaining to the said piece of land and the reversion and remainder and other rents and profits of the said piece of land and appurtenances and also all the estate right title interest use trust inheritance possession benefit equity of redemption claim and demand whatsoever in the vendors to have and to hold the said piece of land meeting house or chapel schoolrooms and premises unto the Trustees their heirs and assigns for ever to their use and the use of the said John Dickinson and Thomas Lowe their heirs and assigns for ever :

And whereas divers sales and purchases have been made of part of the before described piece of land and of adjoining land to the corporation of the city of Birmingham in the year one thousand eight hundred and eighty-eight for road widening and other purposes of the said corporation of the city of Birmingham and the residue of the said piece of land now held by the Trustees measures one thousand nine hundred and twelve square yards or thereabouts :

And whereas the vendors and Trustees were members of a society (hereinafter called " the society ") of Protestant dissenters of the Independent Congregational persuasion as to matters of church government who held maintained and preached the doctrine commonly called Calvinism as set forth in the institutes of the Reverend John Calvin and afterwards comprised in the shorter and longer catechisms of the Assembly of Divines formed at Westminster in the year one thousand six hundred and forty-seven and also held maintained and practised the rite of infant baptism and the present Trustees and congregation of the society hold maintain and preach the said doctrines and practise the said rite :

And whereas the said piece of land was given and released upon certain trusts in the said indenture set forth inter alia :—

(i) To permit a meeting house chapel and schoolrooms and other intended erections to be completed on the said piece of land in such

manner as the major part of the aggregate number of members of the society and the Trustees for the time being think fit at the expense of such members and other persons contributing to the said expense; A.D. 1931.

(ii) That the Trustees for the time being from time to time and at all times thereafter should permit the said meeting house and chapel to be used occupied and enjoyed as a place of religious worship by the society and such other persons as were thereafter united to the society;

(iii) To permit the then minister and his successors to be appointed as in the said indenture provided to officiate in the said meeting house or chapel as the minister or pastor of the society church and congregation;

(iv) That the Trustees for the time being and such persons as shall then be members of the said church or the major part of them at a meeting to be duly assembled for the purpose shall from time to time appoint some proper person or persons being of the said persuasion and holding preaching and practising the said doctrine and rite of infant baptism to officiate as pastor or minister of the said congregation without the interference or influence of any other person or persons whomsoever;

(v) To let and set the pews and sittings belonging to the said meeting house or chapel at any certain rate to be agreed upon by the Trustees or a majority of them and apply the proceeds therefrom as in the said indenture set forth;

(vi) To permit the said schoolrooms to be for ever afterwards occupied and enjoyed as and for a school or place of useful and religious instruction for such persons in such manner and under such regulations and with full power to alter and vary the said regulations as the major part of the Trustees for the time being and of such members of the said church who shall then be subscribers to such school shall at any public meeting to be convened from time to time order;

A.D. 1931.

(vii) That the Trustees for the time being or a majority of them shall at any time or times at a meeting to be duly assembled for the purpose raise such sum or sums by a mortgage of the trust estate and make any conveyance or instrument for the purposes and that the Trustees for the time being shall stand possessed of the money which from time to time shall be received on any such mortgage upon the trusts in the said indenture set forth :

And whereas by the said indenture it is provided declared concluded and agreed for the better continuance of the trusts of the thereby given and released premises and for settling and establishing the same at all times thereafter in and upon fit persons for the managing and ordering thereof that whenever the number of acting trustees for the time being shall be reduced to seven or any less number such seven or a majority in number of them together with the major part in number of the persons who shall then be the deacons of the said church shall at any meeting to be duly convened and holden within six calendar months then next following nominate choose and elect the said deacons and so many more fit and proper persons as with such deacons and the continuing and acting trustees shall complete the number of fifteen to act and be trustees in the said trusts and that such new trustees shall be chosen out of the said church if there shall be a sufficient number of persons eligible thereto and if not then such new trustees shall be chosen out of the then congregation of the said new meeting house or chapel :

And whereas it is further provided that when any new nomination of trustees shall take place it shall be lawful for the then surviving or remaining trustees of the said trusts to grant release and convey to the use of themselves and the said new trustees their heirs and assigns the above given and released hereditaments and premises upon the trusts aforesaid so as of every meeting for the purposes aforesaid there shall be a public notice given in the said new meeting house on the Sunday preceding during the time of divine service and that no such meeting shall be held earlier than the Wednesday succeeding such notice :

And whereas the said meeting house or chapel and schools known and described as the Ebenezer Chapel and Schools were duly erected on the said piece of land by the Trustees and congregation in the year one thousand eight hundred and sixteen and have been used continuously from that date to the present time by the Trustees for the time being and members of the society or congregation and a number of persons members thereof have from time to time been buried in vaults within the precincts of the said chapel :

And whereas by an Order in Council made the sixteenth day of December one thousand eight hundred and seventy-three the burial ground within the precincts of the said chapel was closed and no burials have taken place therein for very many years :

And whereas the said chapel when built was in a residential part of the city of Birmingham it is now in one of the main business centres of the city and the membership thereof has consequently been steadily decreasing until it has now become negligible in so much so that the monetary resources of the said chapel and congregation are insufficient for the support of a minister :

And whereas at a meeting of the whole of the present members or congregation of the said chapel duly convened and held on the sixteenth day of June one thousand nine hundred and thirty a resolution was duly passed by a large majority authorising the then existing trustees to sell the said piece of land granted bargained and released by the said indenture together with the said chapel and schoolrooms and all other the property of the then existing trustees :

And whereas it is expedient that the Trustees should be authorised to sell the said piece of land together with their rights property and interest therein and that all rights of way in over or across the same should be extinguished and cease :

And whereas it is expedient that provision should be made for dealing with any capital moneys coming into the hands of the Trustees through the sale of the said piece of land :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

A.D. 1931.

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

Short title.

1. This Act may be cited as the Ebenezer Chapel Birmingham Act 1931.

Interpretation.

2. In this Act unless the context otherwise requires—

"The deed" means an indenture made the twenty-first day of November one thousand eight hundred and sixteen between John Dickinson Charles Glover and Thomas Lowe of Birmingham in the county of Warwick gentlemen of the one part and John Angear iron founder John Butler brass founder William Brunton engineer Isaac Carter plumber Thomas Fiddian merchant William Gammon watchmaker George Goodwin gunmaker Rice Harris glass manufacturer Edward Jones brass founder John Lilley plater William Leonard the younger sword cutler Samuel Munslow gilder and William Robbins grocer all of Birmingham aforesaid of the other part which said indenture was duly enrolled in the Court of Chancery the twenty-third day of December one thousand eight hundred and sixteen;

"The Ebenezer Chapel" means the meeting house or chapel fronting on Steelhouse Lane in the city of Birmingham and used as a place of public worship in accordance with the terms of the deed;

"The saleable estate" means the Ebenezer Chapel and the site thereof the schoolrooms attached thereto and the vaults thereunder and around and all the land contiguous to the Ebenezer Chapel which is edged pink on the plan signed in duplicate by the Lord Stanmore the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred one

copy whereof has been deposited in the Parliament Office of the House of Lords and the other in the Committee and Private Bill Office of the House of Commons;

"The Trustees" means the trustees appointed in terms of the deed and acting as such at the date of the passing of this Act and their successors in office so to be appointed;

"The appointed day" means the date of the passing of this Act.

Power of sale.

3.—(1) From and after the appointed day the saleable estate and any rights attached or belonging to the saleable estate shall be subject to an absolute power of sale without limitation to be exercised by the Trustees.

(2) As soon as conveniently may be after the appointed day the Trustees shall sell the saleable estate either as a whole or in such manner at such times and on such terms and conditions as they shall think fit freed and discharged from all trusts uses purposes obligations disabilities and restrictions whatsoever including the restriction imposed by section 3 of the Disused Burial Grounds Act 1884 and from all rights or interest of the owners of any vaults or of any seats or pews or of any other person and may and shall execute and do all assurances acts and things necessary or proper for effecting the purposes aforesaid.

(3) Every assurance of land executed by the Trustees under this section shall be effectual without the concurrence or consent of any other person.

(4) Every receipt signed by the Trustees or any three of them shall effectually discharge the purchaser of the saleable estate or any part thereof under the powers of this Act from the amount of money expressed in such receipt to have been received and from being answerable for or bound to see to the application thereof or from being answerable for the loss misapplication or non-application thereof.

Extinguishing rights of way.

4. As from the date of the completion of sale of the saleable estate all rights of way over the same shall be extinguished.

A.D. 1931.

Removal of human remains.

5.—(1) The Trustees shall before the completion of the sale of the saleable estate remove or cause to be removed the remains of all deceased persons interred therein or in any vault therein.

(2) Before proceeding to remove any such remains the Trustees shall publish a notice for three successive days in two local newspapers circulating in the city of Birmingham to the effect that it is intended to remove any such remains and such notice shall have embodied in it the substance of subsections (3) (4) (5) (6) and (7) of this section.

(3) Any time within two months after the first publication of such notice any person who is an heir executor administrator or relative of any deceased person whose remains are interred within the saleable estate may give notice in writing to the Trustees of his intention to undertake the removal of such remains and thereupon he shall be at liberty to cause such remains to be removed to and re-interred in any burial ground or cemetery in which burials may legally take place.

(4) If any person giving notice as aforesaid shall fail to satisfy the Trustees that he is such heir executor administrator or relative as he claims to be the question shall be determined on the application of either party in a summary manner by the registrar of the Birmingham County Court who shall have power to make an order specifying who shall remove the remains.

(5) The expense of such removal or re-interment (not exceeding in respect of remains removed from any one vault or grave the sum of fifteen pounds) shall be defrayed by the Trustees such sum to be apportioned if necessary equally according to the number of remains in the vault or grave.

(6) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the Trustees in respect of the remains in any vault or grave or if after such notice has been given the persons giving the same shall fail to comply with the provisions of this section the Trustees may remove the remains of the deceased person and cause them to be interred in such other burial ground or cemetery in which burials may legally take place as the Trustees think suitable for the purpose.

(7) All monuments and tombstones relating to the remains of any deceased person removed under this Act shall at the expense of the Trustees be removed and re-erected at the place of re-interment or at such place within the city of Birmingham as the registrar of the Birmingham County Court may direct on the application (if any) of such heir executor administrator or relative as aforesaid or failing any such application on the application of the Trustees and the Trustees shall cause to be made a record of such monuments and tombstones and of their situation when re-eretced showing the particulars respecting each monument and tombstone as a separate entry and such record shall be deposited at the General Register Office Somerset House London with the miscellaneous records in the custody of the Registrar-General.

(8) The removal of the remains of any deceased person under this section shall be carried out under the supervision and to the satisfaction of the medical officer of health of the city of Birmingham.

Application of purchase money.

6. All moneys received by the Trustees for the sale of the saleable estate under this Act shall be applied as follows :—

(1) In payment of the cost charges expenses of and incidental to the preparing applying for obtaining and passing of this Act and in the payment of the costs charges and expenses of the sale of the saleable estate and the expenses of the removal and re-interment of human remains under the provisions of this Act and of the removal and re-erection and custody of any monuments within the saleable estate :

(2) In or towards the purchase and laying out of lands within the city of Birmingham or within five miles of the boundary thereof as it shall be at any time as sites for and in or towards the erection and completion of two new meeting houses or chapels and schools to be for ever after administered and conducted under the provisions of the deed with all proper approaches and conveniences thereto including manse houses

A.D. 1931.

for the residence therein of the ministers of the said meeting houses or chapels and the conveyance of the said sites and any buildings thereon to the Trustees and in payment of all costs charges and expenses in connection with such matters:

(3) In providing for an endowment of and in connection with the said new meeting houses or chapels and schools in such manner as the Trustees in their discretion (subject always to the deed) may think proper to the extent of five hundred pounds a year:

(4) (i) In setting aside an endowment not exceeding fifty pounds per annum to provide in some convenient premises near the Ebenezer Chapel for the continuation of the Sunday school work hitherto carried on in the schoolrooms there in accordance with the provisions of the deed and also in providing an endowment not exceeding fifty pounds per annum for the continuation of the Sunday school which the Trustees have established and have carried on for some time past at Elkington Street School in the city of Birmingham either at the school in Elkington Street now being used for that purpose or at some convenient place in the neighbourhood;

(ii) If in the opinion of the Trustees at any time hereafter it has become impracticable to continue the Sunday school work carried on at the Ebenezer Chapel or to continue the Sunday school which has been established at Elkington Street School the Trustees may on obtaining an order of the High Court to that effect in proceedings to which the Attorney-General shall be a party discontinue either or both of such Sunday schools and thereupon the sum or sums set apart as an endowment in accordance with the provisions of this subsection shall be dealt with as such court shall direct.

Any balance of any such moneys remaining in the hands of the Trustees shall be invested in securities in which

trustees are allowed to invest under the Trustee Acts and the income therefrom shall be used by the Trustees in furtherance of the objects of the Society of Protestant Dissenters all as set forth in the deed and in accordance with the provisions in the deed contained. A.D. 1931.

Disposal of registers and other documents.

7. All registers deeds records books and documents belonging to the Trustees kept in the Ebenezer Chapel or elsewhere shall after the appointed day be securely kept by the Trustees.

Printed by EYRE and SPOTTISWOODE, LTD.,
FOR
WILLIAM RICHARD CODLING, Esq., C.B., C.V.O., C.B.E., the King's Printer of Acts of Parliament.

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses
Adastral House, Kingsway, London, W.C.2; 120, George Street, Edinburgh;
York Street, Manchester; 1, St. Andrew's Crescent, Cardiff;
15, Donegall Square West, Belfast;
or through any Bookseller.