CHAPTER xvi

An Act to authorise the trustees in whom is vested the parsonage house for the parish of Holy Trinity Brompton in the royal borough of Kensington to pay the proceeds of sale of such parsonage house to the parochial church council of the said parish, to authorise the erection on part of the churchyard of the said parish of buildings to be used for the purpose of a parsonage house and for other purposes connected with the said parish; and for other purposes. [22nd June, 1961.]

WHEREAS—

(1) The church of Holy Trinity Brompton in the royal borough of Kensington was built in or about the year eighteen hundred and twenty-six and consecrated on the sixth day of June, eighteen hundred and twenty-nine, and is the parish church of the parish of Holy Trinity Brompton (hereinafter called "the parish"):

(2) The said church is surrounded by an area of land (hereinafter referred to as "the churchyard") part of which was formerly used for burials:

(3) By virtue of a series of Orders in Council burials in the churchyard were discontinued approximately fifty years ago:

(4) The freehold of the site of the said church and of the churchyard is vested in the incumbent for the time being of the benefice of Holy Trinity Brompton and the present incumbent is the Reverend Prebendary Patrick Nevile Gilliat:

(5) By virtue of the provisions of (i) a conveyance dated the twenty-eighth day of June, eighteen hundred and seventy-six, and made between Frederick Bowen Jewson, John Guscotte and John Thomas Mould, of the one part, and Edward William Pollard of

the other part, and (ii) a mortgage dated the thirty-first day of March, nineteen hundred, made between Edward Robert Festing and Charles Robert Bradbury, of the one part, and Sarah Ross of the other part, and the events which have happened, Number 30 Brompton Square, London, S.W.3, is vested in trustees to be held by them for the purpose of a parsonage house for the parish subject to such arrangements as have been made between the said trustees and the parochial church council of the parish and the incumbent of the said benefice for the maintenance thereof:

(6) The said parsonage house is no longer suited to present-day needs and the upkeep thereof throws a heavy burden of expense on the parish:

(7) The said trustees are desirous of disposing of the said parsonage house and it is expedient that the proceeds of such disposal should be applied in whole or in part in providing on a portion of the churchyard a new parsonage house together with such other premises as are necessary and suitable for the needs of the parish:

(8) By section 63 (Erection of building on churchyard of Holy Trinity Brompton) of the London County Council (General Powers) Act, 1934, authority was given to the incumbent, the churchwardens and the parochial church council of the parish (all of whom were in the said Act collectively referred to as "the church authorities"), subject to the consent of the council of the royal borough of Kensington, to erect on that portion of the churchyard referred to in the said section (hereinafter referred to as "the 1934 land") a building of such description and to be used for such purposes as were prescribed by such consent and the church authorities erected on the 1934 land a parish hall for use in connection with the activities of the parish:

24 & 25 Geo. 5 c. xl.

(9) The said parish hall was destroyed by enemy action in the year nineteen hundred and forty:

(10) The 1934 land and the remainder of the western portion of the churchyard (hereinafter collectively referred to as "the specified land") comprise a suitable site for the erection of a new parsonage house and such other premises as are necessary and suitable for the needs of the parish, and it is expedient that the parochial church council should be authorised to utilise the same for that purpose:

(11) It is expedient that the several provisions contained in this Act should be enacted:

(12) The objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen'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:—

1. This Act may be cited as the Holy Trinity Brompton Act, 1961. Short title.

2. In this Act, unless there be something in the subject or context repugnant to such construction— Interpretation.

" bishop " means the Bishop of London for the time being, and, during a vacancy in the see of London, includes the guardian of the spiritualities thereof;

" church " means the parish church of Holy Trinity Brompton in the royal borough of Kensington;

" church council " means the parochial church council of the parish;

" existing parsonage house " means Number 30 Brompton Square, London, S.W.3;

" parish " means the parish of Holy Trinity Brompton in the royal borough of Kensington as for the time being constituted;

" parsonage house trustees " means the trustees for the time being holding office under the trust deeds;

" signed plan " means the plan signed in triplicate by Sir William Anstruther-Gray the chairman of the Committee of the House of Commons to whom the Bill for this Act was referred one copy of which plan has been deposited in each of the following offices:—

(*a*) the office of the Clerk of the Parliaments, House of Lords;

(*b*) the Private Bill Office of the House of Commons; and

(*c*) 3/4 South Square, Gray's Inn, W.C.1, being the office of Messrs. Williams and James the solicitors to the incumbent;

" specified land " means the land described in the schedule hereto which land is shown coloured pink on the signed plan;

" trust " means the trust created by the trust deeds;

" trust deeds " means the conveyance dated the twenty-eighth day of June, eighteen hundred and seventy-six, and made

between Frederick Bowen Jewson, John Guscotte and John Thomas Mould, of the one part, and Edward William Pollard of the other part and the mortgage dated the thirty-first day of March, nineteen hundred, and made between Edward Robert Festing and Charles Robert Bradbury, of the one part, and Sarah Ross of the other part.

Provisions with respect to parsonage house trustees.

3.—(1) Notwithstanding anything contained in the trust deeds, the parsonage house trustees may and are hereby authorised to pay to the church council the proceeds of the disposal by them of the existing parsonage house and all other moneys vested in them under the trust deeds.

(2) On the date of the payment of such proceeds and such other moneys by the parsonage house trustees to the church council, the parsonage house trustees shall be dissolved and the trust shall cease and determine.

(3) The parsonage house trustees in office immediately before such dissolution shall, as from that date, be discharged of all their actings and transactions in respect of the trust and of the property vested in them.

Transfer of liabilities.

4. On the dissolution of the trust in accordance with the provisions of the last foregoing section of this Act, all debts and liabilities of the parsonage house trustees shall, by virtue of this Act, be transferred and attached to the church council and shall thereafter be discharged and satisfied by the church council.

Application of trust funds.

5. All moneys received by the church council from the parsonage house trustees under the provisions of section 3 (Provisions with respect to parsonage house trustees) of this Act shall be applied by the church council in and towards carrying out any one or more of the following purposes:—

(*a*) the provision of a parsonage house for the parish;

(*b*) the provision of a residence for any verger in the employment of the church council;

(*c*) the provision of a building or buildings to be used for purposes in connection with the work of the church;

(*d*) the payment of the costs, charges and expenses of this Act:

Provided that any such moneys as are not expended by the church council on any of the aforementioned purposes shall be paid by the church council to the Church Commissioners who shall hold the same as part of the endowments of the benefice of Holy Trinity Brompton.

Discharge of trusts and restrictions affecting specified land and saving for private rights.

6. As from the passing of this Act the specified land shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever (including the effects of consecration) which immediately before the passing thereof attached to the specified land and from all rights and interests of any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land and from all other trusts, uses, obligations, disabilities and restrictions whatsoever which attached thereto immediately before the passing of this Act by reason of the specified land or any part thereof being a disused burial ground or otherwise:

Provided that nothing in this Act shall operate to affect prejudicially any private right or easement (not being a right in respect of a grave) over the specified land or any part thereof which attached thereto immediately before the passing of this Act.

Power to use specified land for building or other purposes.

7. Notwithstanding anything contained in any enactment but subject to the provisions of this Act it shall be lawful at any time after the passing of this Act to use or deal with the specified land or any part thereof for building for or in connection with the purposes of the parish or any charitable purpose or for any other purpose connected therewith in like manner as if no part thereof had ever been used or set apart for the purpose of burial of human remains:

Provided that nothing in this section shall be in derogation of the provisions of any enactment relating to property vested in the incumbents of benefices in their corporate capacities.

Removal of human remains from specified land.

8.—(1) Before any person erects, or causes to be erected, any building on the specified land, the church council shall remove, or cause to be removed therefrom, the remains of all deceased persons interred therein:

Provided that if it appears to the Secretary of State that compliance with this subsection is in all the circumstances unnecessary in relation to all or any of the remains, he may dispense (on such conditions, if any, as he thinks fit) with compliance with those requirements in relation to those remains.

(2) Before proceeding to remove any such remains, the church council shall give notice of their intention so to do by publishing a notice once in each of two successive weeks in a newspaper circulating in the royal borough of Kensington, with an interval between publications of not less than six days, and shall display a like notice in a conspicuous place on the specified land, and such notice shall have embodied in it the substance of subsections (3), (4), (5), (6), (7) and (8) of this section.

(3) At any time within two months after the first publication of such notice, any person who is a personal representative or

relative of any deceased person whose remains are interred in the specified land, or any part thereof, may give notice in writing to the church council of his intention to undertake the removal of such remains, and thereupon he shall be at liberty without any faculty for the purpose, but subject as hereinafter mentioned to any regulations made by the bishop, to cause such remains to be removed to and reinterred in any consecrated burial ground or cemetery in which burials may legally take place but, in the case of a churchyard, only with the consent of the incumbent of the benefice concerned.

(4) If any person giving such notice as aforesaid shall fail to satisfy the church council that he is such personal representative 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 consistory court, who shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(5) The expenses of such removal and reinterment (not exceeding in respect of remains removed from any one grave the sum of twenty-five pounds) shall be defrayed by the church council, such sum to be apportioned if necessary equally according to the number of remains in the grave.

(6) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the church council in respect of the remains in any grave, or if after such notice has been given the person giving the same shall fail to comply with the provisions of this section, and with any regulation of the bishop, the church council may, without any faculty for that purpose, remove the remains of the deceased person and cause them to be interred in such other consecrated burial ground or cemetery in which burials may legally take place as, subject to the consent of the bishop, the church council think suitable for the purpose but, in the case of interment in a churchyard, the previous consent of the incumbent of the benefice concerned shall also be required.

(7) All monuments and tombstones relating to the remains of any deceased person removed under this section shall, at the expense of the church council, be removed and re-erected at the place of reinterment of such remains, or at such place as the bishop may direct on the application (if any) of such personal representative or relative as aforesaid, or, failing such application, on the application of the church council and the church council shall cause a record to be made of each monument and tombstone taken from the churchyard under this section containing—

(*a*) a copy of the inscription on it; and

(*b*) if it is intended to preserve the monument or tombstone, a statement showing where it has been taken to;

and shall deposit a copy of the record with 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 royal borough of Kensington.

Saving for town and country planning. 10 & 11 Geo. 6 c. 51.

9. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act, 1947, for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Costs of Act.

10. All the costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto shall be paid by the church council.

SCHEDULE

DESCRIPTION OF THE SPECIFIED LAND

All that piece of land in the royal borough of Kensington forming part of the churchyard of Holy Trinity Brompton containing seven thousand six hundred and fifty square yards or thereabouts and bounded on the north by the path next Ennismore Gardens Mews on the south by the boundary wall next the grounds of Brompton Oratory on the east by the path running north and south from the lychgate to the car park and on the west by the properties in Princes Gardens Mews and the railings next the Victoria and Albert Museum.

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ARRANGEMENT OF SECTIONS

Section

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4. Transfer of liabilities.
5. Application of trust funds.
6. Discharge of trusts and restrictions affecting specified land and saving for private rights.
7. Power to use specified land for building or other purposes.
8. Removal of human remains from specified land.
9. Saving for town and country planning.
10. Costs of Act.

SCHEDULE—Description of the specified land.