CHAPTER xvi

An Act to authorise the sale of the burial ground comprised in the Independent Chapel at Mawdsley Street in the borough of Bolton, to authorise the erection of buildings thereon; and for other purposes.

[24th May, 1962]

WHEREAS—

(1) By an indenture dated the thirtieth day of March, eighteen hundred and nine, and made between Thomas Greenall of the one part and James Challinor and twelve other persons of the other part the said Thomas Greenall bargained, sold, assigned, transferred and set over unto the said James Challinor and others their executors, administrators and assigns certain land and premises therein mentioned and described adjacent to Mawdsley Street in the borough of Bolton (therein called "Great Bolton") together with the edifice or building erected on part thereof then intended to be used as a chapel and the chapelyard as then enclosed and fenced off, to hold the same as trustees upon trust to permit and suffer the said edifice or building to be used as a chapel or meeting-house for the assembling of Protestant Dissenters of the Independent Persuasion for the worship of Almighty God and also upon trust to permit and suffer the residue of the said land and premises to be used

appurtenant to the said edifice or building as a cemetery or burial ground for the members of the church and other persons assembling from time to time for religious worship therein.

(2) Burials in the said burial ground were discontinued pursuant to an Order in Council of Her late Majesty Queen Victoria dated the eighth day of June eighteen hundred and fifty-four.

(3) In the year eighteen hundred and seventy the said edifice or building was pulled down and a larger chapel erected on the same site and covering the whole of the said burial ground.

(4) By a scheme comprised in an order made by the Board of Charity Commissioners for England and Wales on the twelfth day of December, nineteen hundred and twenty-four, one John Ashurst and twenty other persons mentioned in the said scheme were appointed trustees of the charity known as Congregational Chapel Sunday School and Trust Property at Mawdsley Street Bolton comprised in the said indenture of the thirtieth day of March eighteen hundred and nine and the said property was vested in the last-mentioned trustees for all the estate and interest therein belonging to or held in trust for that charity.

(5) At a special meeting of the members of the Mawdsley Street Congregational Church held on the twenty-fifth day of February, nineteen hundred and fifty-nine, the Lancashire Congregational Union (Incorporated) (hereinafter called "the trustee") being a trust corporation within the meaning of the Law of Property (Amendment) Act, 1926, was appointed the sole trustee of the said property the trustees appointed by the said scheme having all died or ceased to be trustees of the said property and the chairman of the said meeting executed a memorandum of the choice and appointment of new trustee by way of evidence of the due appointment of the trustee.

(6) By a deed of declaration dated the ninth day of March, nineteen hundred and fifty-nine, supplemental to the said memorandum of the choice and appointment of new trustee the trustee declared that in accordance with section 4 of the Baptist and Congregational Trusts Act, 1951, the said property should be held on the appropriate model trusts mentioned in that Act namely the Congregational Model Trusts (General).

(7) The said larger chapel has ceased to be used for religious worship and on the ninth day of November, nineteen hundred and sixty, the members of the said Mawdsley Street Congregational Church at a further special meeting passed a resolution requesting the trustee to assume full responsibility for all the property and assets whatsoever belonging to the church (including the said larger chapel and burial ground) and at the discretion of the trustee to sell, dispose of and deal with all or any part of the property and assets of the church.

(8) It is expedient that the said burial ground should be developed with the adjoining property and that the trustee should be empowered to dispose of the said burial ground by way of sale and that the said burial ground should be freed from all restrictions which may affect the same by reason of the said burial ground being a disused burial ground.

(9) It is expedient that such provisions as are contained in this Act with respect to the sale and development of the said burial ground and the removal therefrom of any human remains interred therein should be enacted.

(10) It is expedient that the other provisions contained in this Act should be enacted.

(11) 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 Independent Chapel Mawdsley Street Bolton Act, 1962. Short title.

2.—(1) In this Act, unless the subject or context otherwise requires— Interpretation.

" the borough " means the borough of Bolton;

" the burial ground " means the burial ground comprised in the chapel and described in the schedule to this Act;

" the chapel " means the Independent Chapel Mawdsley Street situate at the junction of Great Moor Street and Mawdsley Street in the borough;

" enactment " has the same meaning as in the Town and Country Planning Act, 1947;

" the owner " means the person in whom the burial ground is for the time being vested;

" the trustee " means the Lancashire Congregational Union (Incorporated).

(2) Unless the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment including this Act.

Power to sell burial ground and application of proceeds.

3.—(1) The trustee may sell the burial ground or any part thereof for such price or consideration in such manner and upon and subject to such terms and conditions as the trustee may think fit.

(2) The proceeds of any sale effected under the powers conferred by this section shall be paid to the trustee who may deduct or recoup therefrom the amount of any costs, charges and expenses incurred by the trustee under section 8 (Costs of Act) of this Act or in connection with the aforesaid sale.

Discharge of trusts and restrictions affecting burial ground.

4. As from the passing of this Act the burial ground shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before the passing thereof attached to the burial ground, 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 burial ground 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 burial ground or any part thereof being a disused burial ground or otherwise.

Power to use burial ground for building or other purposes.

5. 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, deal with or dispose of the burial ground or any part thereof for building or for any other purpose in like manner as if no part thereof had ever been used or set apart for the purpose of burial of human remains.

Removal of human remains from burial ground.

6.—(1) Before any person erects or causes to be erected any building on the burial ground or uses the burial ground or causes the same to be used for any purpose other than as a burial ground, the owner shall remove, or cause to be removed, therefrom the remains of all deceased persons interred therein.

(2) Before proceeding to remove any such remains the owner shall give notice of his intention so to do by publishing a notice once in each of two successive weeks in a newspaper circulating in the borough, with an interval between each publication of not less than six days, and shall display a like notice in a conspicuous place upon, or near to, the principal door of the chapel, and such notice shall have embodied in it the substance of subsections (3), (4), (5), (6), (7), (8) and (9) 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

burial ground may give notice in writing to the owner of his intention to undertake the removal of such remains and thereupon he shall be at liberty, within two months from the date of such last-mentioned notice, to cause such remains to be removed to and reinterred in any other 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) or to be removed to and cremated in any crematorium.

(4) If any person giving such notice as aforesaid fails to satisfy the owner 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 Bolton County 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 a removal and reinterment or cremation (not exceeding in respect of remains removed from any one grave the sum of twenty-five pounds) shall be defrayed by the owner, such sum to be apportioned if necessary equally according to the number of deceased persons whose remains are in the grave.

(6) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the owner in respect of the remains in any grave, or if after such notice has been given the person giving it or, as the case may be, the person specified in any order made under subsection (4) of this section fails to comply with a provision of this section, the owner may remove the remains of the deceased person and cause them to be reinterred in such other burial ground or cemetery in which burials may legally take place or cremated in such crematorium as the owner thinks suitable for the purpose but, in the case of interment in a churchyard, the previous consent of the incumbent of the benefice concerned shall be required.

(7) Upon any removal of remains from any part of the burial ground, the owner shall deposit with the Registrar-General a certificate of removal and reinterment or cremation giving the dates of removal and reinterment or cremation respectively, identifying the place from which the remains were removed and the place in which they were reinterred or cremated and showing the particulars of each removal separately.

(8) All tombstones relating to the remains of any deceased person removed under this section shall, at the expense of the owner, be removed and re-erected at the place of reinterment or cremation of such remains, or at such place as the said county court may direct on the application (if any) of such personal representative or relative as aforesaid, or, failing such application,

on the application of the owner and the owner shall cause a record to be made of each tombstone taken from the burial ground under this section containing—

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

(*b*) if it is intended to preserve the tombstone a statement naming the place to which it has been taken;

and shall deposit a copy of the record with the Registrar-General:

Provided that in the case of a tombstone in respect of which no application is made by such personal representative or relative as aforesaid it shall not be necessary to re-erect the tombstone if the owner considers that, by reason of its ruinous condition, it is unsuitable for re-erection and any such tombstone may be disposed of in such manner as the owner may direct.

(9) 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 borough.

Saving for town and country planning.

7. 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 purpose of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Costs of Act.

8. 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 trustee.

SCHEDULE

DESCRIPTION OF BURIAL GROUND

A piece of land in the borough containing 3,209 square feet or thereabouts at the junction of Bold Street and Mawdsley Street bounded—

(1) on the north by the south side of Bold Street from the north-east corner of the chapel at the said junction to a point 64 feet west thereof;

(2) on the east by the west side of Mawdsley Street from the said north-east corner of the chapel at the said junction to a point 49 feet south thereof;

(3) on the south by an imaginary straight line commencing at the point referred to in paragraph (2) of this schedule proceeding in a westerly direction to and terminating at a point 67 feet therefrom and 48 feet 6 inches measured in a southerly direction from the point referred to in paragraph (1) of this schedule;

(4) on the west by an imaginary straight line commencing at the point referred to in paragraph (1) of this schedule and proceeding in a southerly direction to and terminating at the point of termination referred to in paragraph (3) of this schedule.

Table of Statutes referred to in this Act

Short title	Session and chapter
Law of Property (Amendment) Act, 1926	16 & 17 Geo. 5 c. 11.
Town and Country Planning Act, 1947	10 & 11 Geo. 6 c. 51.
Baptist and Congregational Trusts Act, 1951 ...	14 & 15 Geo. 6 c. xvii.

PRINTED BY THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., FOR
PERCY FAULKNER, C.B.
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 1*s.* 0*d.* net

PRINTED IN ENGLAND

Independent Chapel Mawdsley Street Bolton Act, 1962

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SCHEDULE—Description of burial ground.