ELIZABETH II



1972 CHAPTER ix

An Act to amend certain provisions of the Hove Corporation Act 1966 relating to the churchyard of the church of Saint Andrew in the borough of Hove; to make further provision with respect to the remains of deceased persons interred in parts of that churchyard; and for other purposes.

[11th May 1972]

WHEREAS—

(1) The church of Saint Andrew in the borough of Hove is surrounded by a churchyard and by the Hove Corporation Act 1966 (in this Act called " the Act of 1966 ") burials in parts of that churchyard (in the Act of 1966 and in this Act called " the specified lands ") were wholly discontinued: 1966 c. xxxviii.

(2) Provision is contained in the Act of 1966 with respect to the disposition of the specified lands, the laying out and development thereof and, subject to the removal of human remains, the erection of buildings thereon:

(3) In accordance with the provisions of the Act of 1966 a part of the specified lands is to be conveyed to the county council of the administrative county of East Sussex (in this Act called " the county council ") for educational purposes and it is intended that the Saint Andrew's (Voluntary) Aided Church of England primary school should be rebuilt thereon in accordance with proposals approved by the Secretary of State:

(4) It is expedient to amend the provisions of the Act of 1966 relating to the requirements to remove the remains of deceased persons in the parts of the specified lands which may be used for the erection of buildings and to make further provision with reference thereto:

(5) It is expedient that the other provisions contained in this Act be enacted:

(6) The purposes of this Act cannot be effected without the authority of Parliament:

(7) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

1933 c. 51.

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:—

Short and collective titles.

1.—(1) This Act may be cited as the Saint Andrew's, Hove, Churchyard Act 1972.

(2) Part III (Saint Andrew's Churchyard) of the Act of 1966 and this Act may be cited together as the Saint Andrew's, Hove, Churchyard Acts 1966 and 1972.

Interpretation. 1966 c. xxxviii.

2.—(1) In this Act " the Act of 1966 " means the Hove Corporation Act 1966 and the several words and expressions to which meanings are assigned by subsection (2) of section 3 (Interpretation) of the Act of 1966 have the same respective meanings, unless there be something in the subject or context repugnant to such construction.

(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 or by virtue of any subsequent enactment, including this Act.

Amendment of sections 9 and 12 of Act of 1966.

3.—(1) Subsection (2) of section 9 (Power to sell specified lands and application of proceeds of sale) of the Act of 1966 shall have effect as if the following words were added thereto:—

" and section 4 (Right to require removal of human remains) of the Saint Andrew's, Hove, Churchyard Act 1972 ".

(2) Subsection (1) of section 12 (Removal of human remains) of the Act of 1966 shall have effect as if for paragraphs (*a*) and (*b*) thereof there were substituted the following words:—

"any purpose likely to involve the disturbance of human remains (any question as to which shall be determined by the Secretary of State, whose decision shall be final)".

Right to require removal of human remains.

4.—(1) Before the erection of any building is commenced on any part of the specified lands not likely to involve the disturbance of human remains the owner shall publish once in each of two successive weeks in some newspaper circulating in the borough a notice—

(*a*) stating the intention to erect such building;

(*b*) describing the part of the specified lands on which it is intended to erect such building; and

(*c*) stating that within a period of forty-two days from the date of the first publication of the notice any person who is a personal representative or relative of any deceased person whose remains are interred in that part of the specified lands may require the removal therefrom of such remains, subject to and in accordance with the provisions of this section;

and display a copy of the notice in a conspicuous position on that part of the specified lands.

(2) If before the expiration of the period of forty-two days referred to in subsection (1) of this section any person who is a personal representative or relative of a deceased person interred in that part of the specified lands on which it is intended to erect any building gives notice to the owner of that part of the specified lands that he requires the remains of that deceased person to be removed the owner before commencing the erection of any building on that part of the specified lands shall without any faculty for that purpose remove the remains of the deceased person and cause them to be re-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 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 also be required) and the provisions of subsections (6) to (8) of section 12 (Removal of human remains) of the Act of 1966 shall apply as though the remains of the deceased person were removed by the owner under that section.

(3) If any person giving such notice as aforesaid shall fail 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 registrar of the

consistory court of the diocese of Chichester who shall have power to make an order as to the payment of the costs of the application.

(4) For the purposes of this section the expression " the owner " has the meaning assigned to it by subsection (9) of section 12 (Removal of human remains) of the Act of 1966.

Costs of Act.

5.—(1) All the costs, charges and expenses preliminary to and of and incidental to the applying for, and the preparing, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the county council and the county council shall have power without the consent of any sanctioning authority to borrow the sum required for the payment thereof and shall repay the sum so borrowed within such period as they may determine not exceeding ten years from the date of borrowing.

(2) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Act shall extend and apply to money borrowed under this section as if it were borrowed under the said Part IX and the period fixed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

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