CHAPTER xxiv

An Act to authorise the sale of the churchyard appurtenant to the former church of Saint Pancras, Pancras Lane, in the city of London, to authorise the erection of buildings thereon; and for other purposes.

[19th July, 1961]

WHEREAS the ancient church of Saint Pancras, Pancras Lane or Soper Lane in the city of London (hereinafter called " the church ") was destroyed in the Great Fire of London in the year sixteen hundred and sixty-six and was not rebuilt:

And whereas by virtue of a reorganisation scheme for the city of London made under the Reorganisation Areas Measure, 1944, and coming into force on the second day of February, nineteen hundred and fifty-four the former parish of Saint Pancras, Pancras Lane or Soper Lane now forms part of the parish of Saint Mary-le-Bow, with Saint Pancras, Soper Lane, All Hallows, Honey Lane, All Hallows, Bread Street, Saint John-the-Evangelist, Watling Street, Saint Augustine with Saint Faith under Saint Paul's, and Saint Mildred, Bread Street with Saint Margaret Moyses, and the freehold of the churchyard appurtenant to the church is now vested in the incumbent of the benefice of Saint Mary-le-Bow, with Saint Pancras, Soper Lane, All Hallows, Honey Lane, All Hallows, Bread Street, Saint John-the-Evangelist, Watling Street, Saint Augustine with Saint Faith under Saint Paul's, and Saint Mildred, Bread Street with Saint Margaret Moyses, and the present incumbent thereof is the Reverend Joseph McCulloch:

And whereas burials in the said churchyard were discontinued by an Order in Council of Her late Majesty Queen Victoria dated the eighth day of August, eighteen hundred and fifty-three:

And whereas it is expedient that the said churchyard should be sold and that the purchaser thereof should be enabled to develop the same:

And whereas it is expedient that such provisions as are contained in this Act with respect to the sale and development of the said churchyard and the removal therefrom of any human remains interred therein should be enacted:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas 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:—

Short title.

1. This Act may be cited as the Saint Pancras, Pancras Lane, Churchyard Act, 1961.

Interpretation.

2. In this Act unless the subject or context otherwise requires—

" the benefice " means the benefice of Saint-Mary-le-Bow, with Saint Pancras, Soper Lane, All Hallows, Honey Lane, All Hallows, Bread Street, Saint John-the-Evangelist, Watling Street, Saint Augustine with Saint Faith under Saint Paul's, and Saint Mildred, Bread Street with Saint Margaret Moyses or any benefice in which the churchyard may from time to time be situate;

" the 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;

" the churchyard " means the lands comprised in the churchyard appurtenant to the former church of Saint Pancras, Pancras Lane, or Soper Lane, in the city of London which said lands are described in the schedule hereto and are shown and coloured pink on a plan marked " Plan of Saint Pancras Churchyard " signed in triplicate by the Right Honourable the Lord Merthyr the chairman of the committee of the House of Lords to whom the Bill for this Act was referred, one copy of which has been deposited at the office of the Clerk of the Parliaments, House of Lords, one at the Private Bill Office, House of Commons and one at the office of the London Diocesan Fund at London Diocesan House, 33 Bedford Square, London, W.C.1;

" the corporation " means the mayor, commonalty and citizens of the city of London;

"the council" means the mayor, aldermen and commons of the city of London in common council assembled;

"enactment" has the same meaning as in the Town and Country Planning Act, 1947; 10 & 11 Geo. 6 c. 51.

"the incumbent" means the incumbent for the time being of the benefice or, during any period when the benefice is vacant, the bishop;

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

"the Parochial Church Council" means the parochial church council of the benefice.

Power to sell churchyard and application of proceeds.

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

(2) The incumbent, after deducting the amount of any costs, charges and expenses incurred by the incumbent under section 9 (Costs of Act) of this Act or in connection with any sale, shall pay the net proceeds of any sale effected under the powers conferred by this section to the Parochial Church Council.

(3) All moneys received by the Parochial Church Council under this section shall be applied by the Parochial Church Council in defraying the cost of restoring the church of Saint Mary-le-Bow in the city of London, subject to any necessary licence or faculty of the consistory court of the diocese of London.

Discharge of trusts and restrictions affecting churchyard and saving for private rights.

4. As from the passing of this Act the churchyard shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before the passing of this Act attached thereto under ecclesiastical law, and from all rights and interests of any person who is an executor, administrator or relative of any deceased person whose remains are interred in the churchyard 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 churchyard or any part thereof being a disused burial ground or forming the churchyard or enclosure of a church 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 churchyard or any part thereof, which attached thereto immediately before the passing of this Act.

Power to use churchyard 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 churchyard 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 or had ever been or formed the churchyard or enclosure of a church:

Provided that development of the churchyard or any part thereof for any purpose authorised by this section shall not, by virtue of anything in this Act, be deemed, for the purposes of the Town and Country Planning General Development Order, 1950, and any enactment amending or replacing the same, to be carried out in pursuance of an Act which designates the nature of the development and the land upon which it may be carried out.

Removal of human remains from churchyard.

6.—(1) Before the owner erects or causes to be erected any building on the churchyard or uses the churchyard 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 city of London, with an interval between publications of not less than six days and shall display a like notice in a conspicuous place in the churchyard 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 an executor, administrator or relative of any deceased person whose remains are interred in the churchyard or any part thereof 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, 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 fails to satisfy the owner that he is such 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 consistory court of the diocese of London, 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 (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 remains 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 a notice has been given, the person giving it fails to comply with either a provision of this section or a regulation of the bishop, the owner may,

without any faculty for that purpose, remove the remains of the deceased person and cause them to be reinterred 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.

(7) Upon any removal of remains from any part of the churchyard, a certificate of removal and reinterment shall be sent to the Registrar-General by the owner, giving the dates of removal and reinterment respectively and identifying the place from which the remains were removed and the place in which they were reinterred, showing the particulars of each removal separately and every such certificate shall be deposited at the General Register Office, Somerset House, London, with the miscellaneous records in the custody of the Registrar-General.

(8) Any monument or tombstone 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 of the remains or at such place as the bishop may direct on the application (if any) of such executor, administrator 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 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.

(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 city of London.

Deposit of objects of interest.

7. All objects of geological or antiquarian interest discovered on or under the churchyard during the execution of any works therein by the owner shall be carefully preserved and, subject to the rights of the Crown and of any other person whose property they may be, be deposited in the Guildhall Museum as the property of the corporation and the corporation acting by the council shall during the execution of those works have power to enter and inspect the works for the purposes of this section.

Saving for town and country planning.

8. 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 (Development orders) and subsection (1) of section 118 (Application to land regulated by special enactments) of that Act.

Costs of Act.

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

SCHEDULE

DESCRIPTION OF THE LAND DEALT WITH BY THE FOREGOING ACT

A piece of land in the city of London containing 2,140 square feet or thereabouts, on the north side of Pancras Lane, bounded on the west by a passage flanking No. 84 Queen Street and extending in a northerly direction for a distance of 45 feet 3 inches or thereabouts to the corner of the porch entrance to No. 12 Pancras Lane, thence in a north-easterly direction for a distance of 3 feet 3 inches or thereabouts to the front wall of No. 12 Pancras Lane, thence in a south-easterly direction for a total distance of 35 feet 10 inches or thereabouts along the front elevation of No. 12 Pancras Lane and at the rear of Nos. 1-4 Bird-in-Hand Court thence in a north-easterly direction for a distance of 12 feet 8 inches or thereabouts, thence in a south-easterly direction for a distance of 10 feet 6 inches or thereabouts to the flank of No. 11 Pancras Lane, thence in a south-westerly direction along No. 11 Pancras Lane for a total distance of 37 feet or thereabouts to Pancras Lane thence in a westerly direction along the northern side of Pancras Lane for a total distance of 48 feet 2 inches or thereabouts to the point of commencement.

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SCHEDULE—Description of the land dealt with by the foregoing Act.