Saint Peter's Church Nottingham (Broad Marsh Burial Ground) Act, 1960

8 & 9 ELIZ. 2 **Ch. xvi**

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Power to sell burial ground and application of proceeds.
4. Discharge of trusts and restrictions affecting burial ground and saving for private rights.
5. Power to use burial ground for building or other purposes.
6. Removal of human remains from burial ground.
7. Saving for town and country planning.
8. Costs of Act.

SCHEDULE—Description of the burial ground.



CHAPTER xvi

An Act to provide for the removal of the restrictions attaching to the Broad Marsh Burial Ground in the united benefice of Saint Peter with Saint James in the city of Nottingham to authorise the sale of the said burial ground and its use for building or otherwise and for other purposes. [2nd June 1960.]

WHEREAS—

(1) The burial ground in the united benefice of Saint Peter with Saint James in the city of Nottingham known as the Broad Marsh Burial Ground was on the twenty-third day of July eighteen hundred and thirty consecrated as an additional cemetery or burial ground for the interment of the dead belonging to the then parish of Saint Peter for ever and thereupon became vested in the incumbent of the said parish:

(2) Burials in the said burial ground were discontinued by virtue of an Order in Council of Her late Majesty Queen Victoria dated the fourth day of April eighteen hundred and fifty-six:

(3) A parish room and an infant school were erected on part of the said burial ground under faculties granted on the eighth day of March eighteen hundred and fifty-four and the

twelfth day of December eighteen hundred and seventy-three respectively but by virtue of the Disused Burial Grounds Act 1884 no further building may be erected on the said burial ground:

47 & 48 Vict. c. 72

(4) It is expedient that the said burial ground should be freed from all restrictions which may affect the same by reason of such consecration and that the incumbent of the said united benefice should be empowered to sell or dispose of the same for building or for any other purpose whatsoever freed from all such restrictions as aforesaid:

(5) The present incumbent of the said united benefice is the Reverend Canon Angus Inglis:

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

(7) The purposes 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 (that is to say):—

Short title.

1. This Act may be cited as the Saint Peter's Church Nottingham (Broad Marsh Burial Ground) Act 1960.

Interpretation.

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

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

"the Board" means the Southwell Diocesan Board of Finance;

"the burial ground" means the piece of land commonly known as the Broad Marsh Burial Ground in the united benefice described in the schedule to this Act and shown coloured pink on the signed plan together with the buildings erected thereon;

"the city" means the city of Nottingham and county of the same city;

10 & 11 Geo. 6 c. 51

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

"the parish church" means the parish church of the united benefice;

"the rector" means the rector for the time being of the united benefice;

"the signed plan" means the plan signed in triplicate by Sir William Anstruther-Gray Baronet 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*) the office of the town clerk of the city;

"the united benefice" means the united benefice of Saint Peter with Saint James in the city as for the time being constituted.

(2) If there be any discrepancy between the description in the schedule to this Act and the signed plan the signed plan shall prevail.

(3) Copies of or extracts from the signed plan deposited at the office of the town clerk of the city certified by the said town clerk to be true shall be received in all courts of justice and elsewhere as evidence of the contents of such plan so far as it relates to the land shown thereon.

(4) Except where the context otherwise requires any reference in this Act to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

Power to sell burial ground and application of proceeds.

3.—(1) The rector may sell use deal with or otherwise dispose of the burial ground or any part thereof for such price or consideration in such manner and upon and subject to such terms as the rector may think fit.

(2) All sums of money payable by any person on account of the sale or other disposal to him or the use by him of the burial ground shall be paid to the rector and the receipt of the rector shall be a good and sufficient discharge.

(3) The rector after deducting the amount of—

(*a*) 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 together with interest thereon at the rate of four pounds per centum per annum from the date of payment thereof till the date of such repayment;

(*b*) any costs charges or other expenses incurred in connection with the sale or other disposal of the burial ground; and

(*c*) the expenses of and in connection with the removal and re-interment of human remains incurred by him under section 6 (Removal of human remains from burial ground) of this Act;

shall pay the net proceeds of any sale or other disposal effected under the powers conferred by this section to the Board as custodian trustees.

(4) All moneys received by the Board under this section shall be applied by the Board for such of the following purposes as the rector with the approval of the bishop may from time to time determine (namely):—

(*a*) the preservation and maintenance of the fabric of the parish church;

(*b*) the improvement of the benefice income of the united benefice and the upkeep and improvement of the parsonage house of the united benefice;

(*c*) contributing towards the cost of assisting in the cure of souls in the united benefice and the congregation of the parish church by clerical or lay workers;

(*d*) (subject to obtaining a faculty for the purpose) the erection of a hall within the precincts of the parish church or the adaptation enlargement and improvement of the existing church room and vestry to be used for religious purposes and purposes ancillary thereto in substitution for the parish room referred to in the preamble to this Act;

(*e*) (in the event of such moneys being in the opinion of the rector more than sufficient for the reasonable requirements of the united benefice) the augmentation of the income of the poorer benefices in the city.

Discharge of trusts and restrictions affecting burial ground and saving for private rights.

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:

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 burial ground or any part thereof which attached thereto immediately before the passing of this Act.

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 rector 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 rector shall give notice of his intention so to do by publishing a notice once in each of two successive weeks in at least two local newspapers circulating in the city with an interval between publications of not less than six days and shall display a like notice in a conspicuous place in the burial ground 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 burial ground may give notice in writing to the rector 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) within two months from the date of such last-mentioned notice 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 rector 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 Southwell 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 rector 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 rector 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 rector may without any faculty for the 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 rector 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) All monuments and tombstones relating to the remains of any deceased person removed under this section shall at the expense of the rector 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 rector and the rector shall cause a record to be made of such monuments and tombstones and of their situation when re-erected 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:

Provided that in the case of a monument or 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 monument or tombstone if the rector considers that by reason of its ruinous condition it is unsuitable for re-erection and any such monument or tombstone may be disposed of in such manner as the rector subject to the faculty jurisdiction within the diocese of Southwell may direct.

(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.

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. 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 rector.

SCHEDULE

DESCRIPTION OF THE BURIAL GROUND

All that piece of land situate in and having a frontage of forty-two feet five inches to the south side of Broad Marsh in the city and containing by admeasurement one thousand eight hundred and fifty square yards or thereabouts and bounded on the north-east by premises fronting on the south side of Broad Marsh and vested in the Board on the east and south-east by premises used by the lord mayor aldermen and citizens of the city for educational purposes on the south and south-west by property fronting to the east side of Carrington Street and vested in the Abel Collins Charity and on the north-west by property fronting on Broad Marsh and vested in the said Abel Collins Charity.

PRINTED BY THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., FOR
SIR JOHN ROUGHTON SIMPSON, 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 9*d*. net
PRINTED IN ENGLAND