Wesley's Chapel, City Road, Act 1980

CHAPTER xviii

ARRANGEMENT OF SECTIONS

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ELIZABETH II

1980 CHAPTER xviii

An Act to authorise the use of the burial ground of Wesley's Chapel situate in City Road in the London borough of Islington for other purposes.

[30th June 1980]

WHEREAS Wesley's Chapel in the London borough of Islington (hereinafter called "the chapel") was constructed in or about the year 1778 on a site having a frontage to City Road in the said borough:

And whereas land appurtenant to the chapel was formerly used as a burial ground (hereinafter called "the burial ground") but by Order in Council of Her late Majesty Queen Victoria dated 29th December 1853 burials in the burial ground were discontinued:

And whereas the freehold of the chapel and the land appurtenant thereto is vested in the Trustees for Methodist Church Purposes, a body corporate constituted by the Methodist Church Act 1939, as custodian trustees upon the model trusts contained in Part III of Schedule 2 to the Methodist Church Act 1976, and the members of the Church Council of Wesley's Chapel are the managing trustees thereof: 1939 c. xxvi. 1976 c. xxx.

And whereas it is expedient that the burial ground should be freed from all restrictions which may affect the same by reason of its being a disused burial ground and that the members of the Church Council of Wesley's Chapel be empowered to use, deal with or dispose of the burial ground or any part thereof for building or other purposes:

And whereas it is expedient that the provisions contained in this Act with regard to the removal of human remains from the burial ground should be enacted:

And whereas it is expedient that the other provisions of 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 Wesley's Chapel, City Road, Act 1980.

Interpretation.

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

" the borough " means the London borough of Islington;

" the burial ground " means the disused burial ground on land appurtenant to the chapel, being the land in the London borough of Islington shown edged red on the plan signed in triplicate by Bryant Godman Irvine, the chairman of the Committee of the House of Commons to whom the Bill for this Act was referred, of which one copy has been deposited in the office of the Clerk of the Parliaments, House of Lords, one copy in the Private Bill Office of the House of Commons and one copy in the office of the chapel;

" the chapel " means Wesley's Chapel situate in City Road in the London borough of Islington;

" the owner " means the person for the time being receiving the rack-rent of the burial ground, whether on his own account or as agent or trustee for any other person, or who would so receive the same if the burial ground were let at a rack-rent.

Discharge of trusts and restrictions affecting burial ground.

3. 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

other trusts, uses, obligations, disabilities and restrictions whatsoever which attached to the burial ground, or any part thereof, immediately before the passing of this Act by reason of the burial ground or any part thereof being a disused burial ground; and the provisions of the Disused Burial Grounds Act 1884 shall cease to apply to the burial ground: 1884 c. 72.

Provided that nothing in this Act shall operate to affect prejudicially any private right or easement over the burial ground, or any part thereof, or any trust, use, obligation, disability or restriction by reason of its being model trust property as defined in the Methodist Church Act 1976, in either case attaching thereto immediately before the passing of this Act. 1976 c. xxx.

Power to use burial ground for other purposes.

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

Removal of human remains.

5.—(1) (*a*) No part of the burial ground shall be used for any purpose likely to involve the disturbance of the remains of any deceased person interred therein until those remains have been removed and re-interred or cremated in accordance with the following provisions of this section.

(*b*) Before any such remains are removed from any part of the burial ground the owner shall give notice in accordance with subsection (3) below of the intended removal of the remains from that part of the burial ground.

(2) No part of the burial ground shall be used for the purpose of carrying out any work which does not involve the disturbance of the remains of any deceased person interred in any grave or vault, but which will render the grave or vault inaccessible, until the owner has given notice in accordance with subsection (3) below that the grave or vault will be rendered inaccessible.

(3) Notice under subsection (1) or (2) above shall describe the part of the burial ground or any grave or vault to which it relates and state the general effect of the following provisions of this section and section 6 (Monuments, tombstones, records, etc.) of this Act, and shall be given by publishing it once in each of two successive weeks in a newspaper circulating in the borough and by displaying it in a conspicuous place upon or near to the burial ground.

(4) At any time within 4 weeks after the first publication of a notice under subsection (1) or (2) above, any person who is a personal representative or relative of any deceased person whose remains are interred in the part of the burial ground or, as the case may be, in the grave or vault described in the notice may give notice in writing to the owner of his intention to undertake the removal of such remains, and thereupon, if such remains can be identified, he shall be at liberty to cause such remains to be removed and re-interred in any burial ground or cemetery in which burials may legally take place, or to be removed to and cremated in any crematorium, and forthwith after such re-interment or cremation shall provide the owner with a certificate for the purpose of enabling compliance with subsection (8) below.

(5) 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 or that the remains in question can be identified, the question shall be determined on the application of either party by the county court, and the court shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(6) The owner shall defray the expenses of the removal and re-interment or cremation of such remains, not exceeding such sum as may be reasonable in the circumstances.

(7) If—

(*a*) within the said period of 4 weeks no notice under sub-section (4) above has been given to the owner in respect of the remains in any grave or vault; or

(*b*) such notice is given and no application is made under subsection (5) above within 4 weeks after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 4 weeks thereafter; or

(*c*) within 4 weeks after any order is made by the county court under the said subsection (5) any person, other than the owner, specified in the order fails to remove the remains; or

(*d*) it is determined that the remains to which any such notice relates cannot be identified;

the owner shall be at liberty—

(i) in the case where notice of intended removal of the remains was given under subsection (1) above, to remove the remains and cause them either to be re-interred in such burial ground or cemetery in which burials may legally take place as the owner thinks suitable for the purpose or cremated in such crematorium as the owner thinks suitable for the purpose:

Provided that if any personal representative or relative has given notice under subsection (4) above and has satisfied the owner that he is such personal representative or relative as he claims to be and that the remains can be identified but does not remove the remains, the owner shall comply with any reasonable request he may make in relation to the removal and re-interment or cremation of the remains;

(ii) in the case where notice that the grave or vault in which the remains are interred will be rendered inaccessible was given under subsection (2) above, to carry out the work that will have that effect.

(8) Upon the re-interment or cremation of any remains under this section, a certificate of re-interment or cremation shall be sent to the Registrar General by the owner giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated.

(9) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions that may be given by the Secretary of State.

(10) Any jurisdiction or power conferred on the county court by this or the next following section may be exercised by the registrar of the court.

Monuments, tombstones, records, etc.

6.—(1) (*a*) Subject as hereinafter provided, any monument or tombstone relating to the remains of any deceased person removed and re-interred under section 5 (Removal of human remains) of this Act shall be removed to and re-erected at the place of re-interment of such remains or at such other place as the county court may direct on the application either of such personal representative or relative as is referred to in subsection (4) of that section, or of the owner.

(*b*) Subject as aforesaid, any monument or tombstone relating to the remains of any deceased person removed and cremated

under the said section 5 shall, at the request of such personal representative or relative as aforesaid or, if no such request is made, at the discretion of the owner, be removed to and re-erected at such place as may be agreed between such personal representative or relative and the owner or, in default of such agreement, at such place as the county court may direct on the application either of such personal representative or relative or of the owner.

(*c*) Any monument or tombstone not re-erected in accordance with paragraph (*a*) or (*b*) above shall be broken and defaced before being disposed of in such manner as the owner thinks fit.

(*d*) The owner shall not be required under this subsection to remove and re-erect any tombstone which is built into or forms part of a building unless and until that building is demolished.

(*e*) The reasonable expense of removing and re-erecting or disposing of any monument or tombstone under this subsection shall be defrayed by the owner.

(*f*) The owner shall cause a record to be made of each monument and tombstone taken from the burial ground under this section containing—

(i) a copy of the inscription thereon; and

(ii) if it is intended to preserve the monument or tombstone, a statement naming the place, if any, where it has been re-erected;

and shall deposit a copy of the record with the Registrar General.

(*g*) Where the owner considers that, by reason of its illegible or ruinous condition, a monument or tombstone removed under this subsection is unsuitable for re-erection, he may dispose of the monument or tombstone in such manner as he thinks fit.

(*h*) In this subsection references to re-erection include placing a monument or tombstone in any position, in which any words inscribed thereon are visible.

(2) The owner shall cause a record to be made of every grave or vault rendered inaccessible by any such work as is referred to in subsection (2) of the said section 5 and such record shall include a copy of any legible inscription on any monument or tombstone on, or forming part of, the grave or vault.

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