



CHAPTER xxi

An Act to authorise the setting aside of the western part of the churchyard of the parish church of the united parish of Saint Peter with Saint James in the city of Nottingham at street level for street improvements, to authorise the sale or leasing of the southern part of the said churchyard and its use for building or otherwise, to authorise the demolition of the vestry at the north-east corner of the said church and the erection on the site thereof and on adjoining parts of the said churchyard of a building for use as a vestry, parish hall and centre for religious instruction, to authorise the erection of a bookshop on part of the said churchyard to the north of the said church; and for other purposes.
[3rd July, 1962.]

WHEREAS—

(1) The parish church of the united parish of Saint Peter with Saint James in the city of Nottingham is surrounded by consecrated ground (hereinafter referred to as “the churchyard”) which was formerly used for burials:

(2) Burials in the churchyard were discontinued pursuant to Orders in Council made by Her late Majesty Queen Victoria on the fourth day of April, eighteen hundred and fifty-six and the fifteenth day of July, eighteen hundred and eighty-one:

(3) It is expedient that parts of the churchyard should be freed from all restrictions which may affect the same by reason of such consecration:

(4) The freehold site of the said church and churchyard is vested in the rector for the time being of the said united parish and the present rector is the Reverend Canon Angus Inglis:

(5) A plan marked "Saint Peter's Church, Nottingham, Churchyard" and showing the churchyard was in the month of November, nineteen hundred and sixty-one deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and in the office of the town clerk of the city of Nottingham and county of the same city, and is in this Act referred to as the deposited plan:

(6) Development which is now in progress in the locality of the said church and churchyard and the proper future development of that locality make it expedient that—

(a) the rector of the said united parish should be empowered to set aside, at the level of Saint Peter's Square (which is below the level of the churchyard), the western part of the churchyard, which is shown coloured blue on the deposited plan, for street improvements; and

(b) the said rector should be empowered to sell, or grant leases of or use, deal with, or dispose of the southern part of the churchyard, which is shown coloured green on the deposited plan, and the purchaser, or lessee thereof, should be enabled to develop the same:

(7) Subject to the grant of any necessary faculties it is expedient to authorise—

(a) the demolition of the choir vestry of the said church, and the erection of a building to be used principally, as to the ground floor, as a vestry and church hall, and, as to the upper floor, as a centre for religious instruction, on the part of the churchyard and of the site of the said vestry which is shown coloured yellow on the deposited plan; and

(b) the erection of a bookshop to assist the work of the said church on the part of the churchyard and of the site of the said vestry, which is shown coloured pink on the deposited plan:

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

(9) 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:—

1. This Act may be cited as the Saint Peter's Church, Short title. Nottingham, Churchyard Act, 1962.

2.—(1) In this Act, unless the subject or context otherwise Interpretation. 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 blue land ” means that part of the churchyard which is shown coloured blue on the deposited plan;

“ the board ” means the Southwell Diocesan Board of Finance;

“ the church council ” means the parochial church council of the united parish;

“ the churchyard ” means the churchyard surrounding the parish church;

“ the city ” means the city of Nottingham and county of the same city;

“ the consistory court ” means the consistory court of the diocese of Southwell;

“ the corporation ” means the lord mayor, aldermen and citizens of the city;

“ the deposited plan ” means the plan referred to in the preamble to this Act;

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

“ the green land ” means that part of the churchyard which is shown coloured green on the deposited plan;

“ the parish church ” means the parish church of the united parish;

“ the pink land ” means that part of the churchyard and of the site of the vestry which is shown coloured pink on the deposited plan;

“ the rector ” means the rector for the time being of the united parish;

“ the St. James's charity ” means the charity called “ St. James's Church House in the city of Nottingham ” regulated by a scheme of the Charity Commissioners dated the tenth day of April, nineteen hundred and fifty-six;

“ the specified lands ” means the blue land, the green land, the pink land and the yellow land together;

“ the united parish ” means the united parish of Saint Peter with Saint James in the city as for the time being constituted;

“ the vestry ” means the choir vestry erected in the churchyard by virtue of a faculty dated the twenty-seventh day of November, nineteen hundred and thirty-five;

“ the yellow land ” means that part of the churchyard and of the site of the vestry which is shown coloured yellow on the deposited plan.

(2) A document purporting to be certified by the town clerk of the city to be a copy of the deposited plan deposited at the office of the said town clerk or of any part thereof shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.

(3) 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.

Discharge of trusts and restrictions affecting specified lands and saving for private rights.

3. As from the passing of this Act the specified lands shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever (including the effects of consecration) which immediately before the passing thereof attached to the specified lands, 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 specified lands 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 specified lands or any part thereof being a disused burial ground or otherwise:

Provided that nothing in this Act shall—

(1) operate to affect prejudicially any private right or easement (not being a right in respect of a grave) over the specified lands or any part thereof which attached thereto immediately before the passing of this Act; or

(2) free and discharge the blue land from the effects of consecration.

Power to adapt western part of churchyard for street improvement.

4.—(1) The rector may without any licence or faculty of the consistory court carry out and do or permit to be carried out and done all such works and things as are convenient and proper for the purpose of laying out the blue land at the level of Saint Peter's Square as and for an extension of or addition to

the adjacent streets or roads and may permit the same to be for ever thereafter used as and for such extension or addition as aforesaid and may dedicate the same for highway purposes.

(2) When the blue land shall have been laid out and dedicated as aforesaid it shall be maintainable at the public expense by virtue of this section.

5.—(1) The rector may sell, or grant a lease of, the green land or any part thereof (including any legal interest, in relation to the green land or that part, in the highway on which the green land or that part fronts, adjoins or abuts) to any person at such price, or consideration, or for such term, at such fine, at such rent and subject to such covenants and provisions, and generally in such manner as the rector may think fit.

Power to sell, lease, use and develop southern part of churchyard and application of proceeds of sale.

(2) 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 green land 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:

Provided that nothing in this section shall authorise the erection of any building on or over the surface of the green land so long as it is not lawful to erect any building (except for the purposes of enlarging the church) on the churchyard other than the specified lands.

(3) All sums of money payable by any person on account of the sale to him of the green land, or by way of fine on the grant of a lease to him of the green land, shall be paid to the rector and the receipt of the rector shall be a good and sufficient discharge therefor.

(4) 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 incurred by him, together with interest thereon at the rate of one pound per centum per annum above the rate per annum equivalent to bank rate for the time being prevailing from the date of payment thereof till the date of such repayment;

(b) the costs, charges or other expenses incurred by him in connection with the sale, leasing or other disposal of the green land; and

- (c) the expenses of and in connection with the removal and reinterment of human remains incurred by him under section 8 (Removal of human remains from specified lands) of this Act;

shall pay the net proceeds of any sale or the balance of any fine received on any lease effected under the powers conferred by this section to the board as custodian trustee.

(5) 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 of Saint Peter with Saint James in the city and the upkeep and improvement of the parsonage house of the said united benefice;
- (c) contributing towards the cost of assisting in the cure of souls in the united parish and the congregation of the parish church by clerical or lay workers;
- (d) defraying the costs and expenses incurred in the demolition of the vestry and in the erection, rebuilding, repair and maintenance of any building under the powers of section 6 (Power to erect and use buildings on vestry site and parts of the churchyard adjoining that site) of this Act;
- (e) the provision of music (including the training of choristers) for the parish church and purposes ancillary thereto;
- (f) the provision or maintenance of any Church of England voluntary aided school at which children residing in the city are receiving full-time education and directly connected with the parish church;
- (g) the furnishing of means for experiment and research into methods of religious education;
- (h) (in the event of such moneys being in the opinion of the rector more than sufficient for the reasonable requirements of the united parish) the augmentation of the income of the poor benefices in the city or the payment of contributions to the Nottinghamshire Clergy Widows' and Dependents' Fund or to any other charity concerned with the welfare of the clergy who are for the time being serving or who have served in the city or of their families.

6.—(1) Notwithstanding anything contained in any enactment but subject to the provisions of this Act and in particular to the provisions of subsection (2) of this section it shall be lawful at any time after the passing of this Act—

Power to erect and use buildings on vestry site and parts of the churchyard adjoining that site.

- (a) to demolish the vestry; and
- (b) to erect on the yellow land a building to be used principally, as to the ground floor, as a vestry and church hall and, as to the upper floor, as a centre for religious instruction; and
- (c) to erect a building on the pink land, to use the same or the building thereon or any part thereof and to grant leases of the same or the building thereon or any part thereof in accordance with the provisions of this section;

in like manner as if no part thereof had ever been used or set apart for the purpose of burial of human remains.

(2) Subject to a faculty in that behalf being first granted by the consistory court the rector may erect—

- (a) a building on the yellow land; and
- (b) a building on the pink land;

and retain the same permanently thereon and rebuild, repair and maintain the same from time to time as occasion may require.

(3) Any building or any part thereof erected on the yellow land may be used at the discretion of the rector for any one or more of the following purposes:—

- (a) for the purpose of a centre for religious education;
- (b) for the purposes of meetings in connection with the work of the parish church;
- (c) for any other purpose (whether of a kindred nature or not) authorised by a faculty granted by the consistory court.

(4) Any building or any part thereof erected on the pink land may be used—

- (a) for the purpose of carrying on the trade or business of retail dealers in religious or other books, pictures and stationery appropriate to a church bookshop, in religious educational equipment and in church requisites and equipment of every description;
- (b) for any other purpose (whether of a kindred nature or not) authorised by a faculty granted by the consistory court.

(5) Subject to a faculty in that behalf being first granted by the consistory court and to the provisions as to use contained in the last preceding subsection the rector may grant a lease of

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any building erected on the pink land or any part thereof to the Society for Promoting Christian Knowledge, or any agency of the Church of England which is registered as a charity under the Charities Act, 1960, for such term at such rent and subject to such covenants and provisions as he shall from time to time think fit and without prejudice to the generality of the foregoing power he may in particular grant a lease of the whole or any part of the said building for a term not exceeding ninety-nine years to any such body who shall covenant not to carry on any trade or business upon the demised premises other than a trade or business mentioned in paragraph (a) of subsection (4) of this section.

(6) The consistory court shall have power to grant a faculty for the purposes of this section on the application of the rector or (with the consent of the rector) of any other person interested therein.

Application
of rents and
profits of part
of specified
lands.

7.—(1) Any rents and profits to be received in respect of the green land or the pink land or any building erected thereon shall be paid to the trustees of the St. James's charity.

(2) The trustees of the St. James's charity shall apply the said rents and profits for the purposes for which the income of the St. James's charity is applicable or for some of those purposes.

Removal of
human remains
from specified
lands.

8.—(1) Before any part of the specified lands is 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 a newspaper circulating in the city, with an interval between each publication 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 a personal representative or relative of any deceased person whose remains are interred in the specified lands or any part thereof 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 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 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 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 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 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) 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, giving the dates of removal and reinterment, identifying the place from which the remains were removed and the place in which they were reinterred and showing the particulars of each removal separately.

(8) 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 each monument and tombstone taken from the specified lands 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 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 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.

(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.

Saving for town and country planning.

9. 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.

10. 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.

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 1s. 0d. net

PRINTED IN ENGLAND

Saint Peter's Church, Nottingham, Churchyard Act, 1962

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