



CHAPTER viii.

An Act to authorise the sale of the churchyard of the former church of Allhallows Staining to the Master, Wardens and Commonalty of Freemen of the Art or Mystery of Clothworkers of the City of London ; and for other purposes.

[9th May 1961.]

WHEREAS

(1) By a scheme dated the seventeenth day of March, eighteen hundred and seventy, prepared and certified under the Union of Benefices Act, 1860, by the Ecclesiastical Commissioners for England (hereinafter referred to as "the Commissioners") and ratified by an Order in Council dated the thirty-first day of March, eighteen hundred and seventy, the benefice of Allhallows Staining was, pursuant to the provisions of Lady Slaney's (Trust) Estate Act, 1869, united with the benefice of St. Olave Hart Street:

(2) By the said Act of 1869 and the said scheme provision was made for the removal of the church of Allhallows Staining (other than the tower thereof) and for the sale of the site of the said church, together with the tower thereof and other land adjoining, to the Master, Wardens and Commonalty of Freemen of the Art or Mystery of Clothworkers of the City of London (commonly called "the Clothworkers' Company" and hereinafter referred to as "the Company") and, by a conveyance dated the eighteenth day of May, eighteen hundred and seventy-one, made between the Commissioners of the one part and the Company of the other part, the said site, together with the tower and other land aforesaid, was duly conveyed to the Company :

(3) Under the provisions of the said Act of 1869 and the said scheme the churchyard of Allhallows Staining became vested in the incumbent for the time being of the united benefice of St. Olave Hart Street and Allhallows Staining, and in the said conveyance of the eighteenth day of May, eighteen hundred and seventy-one, the Company covenanted with the Commissioners (inter alia) to fence in the said churchyard and preserve it in good order:

(4) By a scheme dated the twenty-eighth day of July, nineteen hundred and twenty-one, prepared and certified by the Commissioners under the Union of Benefices Acts, 1860 and 1898, and duly ratified by Order in Council, which came into operation on the eighteenth day of October, nineteen hundred and twenty-one, the benefice of St. Katherine Coleman was added to the united benefice of St. Olave Hart Street and Allhallows Staining:

(5) Burials in the churchyard of Allhallows Staining were discontinued by an Order in Council dated the eighth day of August, eighteen hundred and fifty-three, and, apart from the reinterment therein of human remains found under the site of the church of Allhallows Staining, pursuant to the said Act of 1869 and the said scheme of 1870, the churchyard has not been used for the interment of human remains since the year eighteen hundred and fifty-three:

(6) The churchyard suffered severe damage from bombing in nineteen hundred and forty and nineteen hundred and forty-one, and has since then been restored, drained and paved by the Company, by and with the assent of the then incumbent of the united benefice:

(7) The present incumbent of the united benefice of St. Olave Hart Street, Allhallows Staining and St. Katherine Coleman is the Reverend Maurice Dean, in whom is now vested the freehold of the churchyard of Allhallows Staining:

(8) The churchyard is adjoined to the west by land of the Company upon which they have recently re-built their hall and erected other premises:

(9) It is expedient that the churchyard should be sold to the Company and the land vested in them for preservation as a private open space, subject as hereinafter provided:

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

(11) 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:—

1. This Act may be cited as the Allhallows Staining Churchyard Act, 1961. Short title.

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

“ the churchyard ” means the churchyard appurtenant to the church of Allhallows Staining, formerly standing in Mark Lane in the city of London, being the land described in the schedule to this Act and shown by cross-hatching on a plan marked “ Plan of Allhallows Staining Churchyard ” signed in quadruplicate by the Right Honourable the Lord Merthyr, the chairman of the committee of the House of Lords to which 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 in the Private Bill Office of the House of Commons, one at the office of the solicitors to the incumbent at 1, The Sanctuary in the city of Westminster, and one at the office of the clerk to the Company at Clothworkers' Hall, Dunster Court, Mincing Lane, in the city of London;

“ the Company ” means the Master, Wardens and Commonalty of Freemen of the Art or Mystery of Clothworkers of the City of London (commonly called “ the Clothworkers' Company ”);

“ the incumbent ” means the rector for the time being of the united benefice or, during any period in which the united benefice is vacant, the Lord Bishop of the diocese of London for the time being;

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

“ the united benefice ” means the united benefice of Saint Olave Hart Street, Allhallows Staining and Saint Katherine Coleman.

3. (1) The incumbent may sell to the Company the churchyard for such price or consideration, in such manner, and upon and subject to such terms and provisions as the incumbent may think fit. Power to sell churchyard and application of proceeds.

(2) The incumbent shall pay the net proceeds of the sale of the churchyard under this section to the London Diocesan Fund,

which shall retain the said proceeds on trust for the parochial church council, and shall, at the request of the parochial church council, apply the same, or any part thereof, including any accumulated interest thereon, in defraying the cost of repairs to the fabric of the church of Saint Olave Hart Street in the city of London.

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

4. (1) Subject to the provisions of subsection (2) of this section, as from the date on which the incumbent exercises his power of sale over the churchyard, the churchyard shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever which, immediately before the said date, attached thereto under ecclesiastical law, and from all rights and interests of any person who is an heir, 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 which attached thereto immediately before the said date by reason of the churchyard, or any part thereof, forming the site or enclosures of a church or being a disused burial ground or churchyard or otherwise.

(2) Notwithstanding anything in subsection (1) of this section, the following provisions shall apply to and in relation to the churchyard:—

- (a) 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 date on which the incumbent exercises his power of sale over the churchyard;
- (b) No human remains now interred in the churchyard shall be removed, and no existing grave or tombstone or memorial to any deceased person in the churchyard shall be disturbed or moved, without, in any such case, a faculty or licence of a consistory court;
- (c) Any person having an interest in any grave in the churchyard shall be entitled to have access to such grave on application in writing to the clerk to the Company;
- (d) The incumbent shall at all times have such access to the churchyard as he may desire;
- (e) No buildings shall be erected upon the churchyard or any part thereof.

Costs of Act.

5. 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 Company.

SCHEDULE

DESCRIPTION OF CHURCHYARD

A piece of land in the city of London containing four thousand, five hundred and twenty-four square feet, or thereabouts, bounded on the north by a public footway known as Star Alley, on the east by land in the ownership of the Company constituting part of the site of the said former church of Allhallows Staining and parts of the sites of former buildings known as 7 and 9/10 Mark Lane (which were destroyed by enemy action on the tenth day of May, nineteen hundred and forty-one), upon part of which said land now stands the tower of the said former church with a crypt known as Lambe's Chapel Crypt adjoining and upon other part of which said land now stands the parish hall of St. Olave Hart Street (the remainder of such land being at present unbuilt upon), on the south by a private courtyard known as Dunster Court and the exit road leading therefrom to Mark Lane (such courtyard and exit road being in the ownership of the Company as to part and of the City of London Real Property Company Limited as to the remainder), and on the west by land belonging to the Company upon which they have recently rebuilt their hall and erected other premises.

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Table of Statutes referred to in this Act

Short title	Session and chapter
Union of Benefices Act, 1860	23 & 24 Vict. c. 142
Lady Slaney's (Trust) Estate Act, 1869	32 & 33 Vict. c. 8
Union of Benefices Act, 1898	61 & 62 Vict. c. 23

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ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Power to sell churchyard and application of proceeds.
4. Discharge of trusts and restrictions affecting churchyard and saving for private rights.
5. Costs of Act.

SCHEDULE—Description of churchyard.