

ELIZABETH II



1965 CHAPTER V

An Act to provide for the erection by the London Diocesan Fund of a new church on part of the site of the former church of Saint Anne, Soho, and the burial ground appurtenant thereto; to authorise the use for other purposes of the said site and lands; and for purposes incidental thereto. [2nd June 1965] c. 7.

WHEREAS by an Act passed in the thirtieth year of the reign of His late Majesty King Charles II intituled "An Act for making Part of the Parish of Saint Martin in the Fields a new Parish, to be called The Parish of Saint Anne, within the Liberty of Westminster" the parish of Saint Anne, Soho, in the city of Westminster (hereafter called "the former parish") was created: c. 20.

And whereas by an Act passed in the first year of the reign of His late Majesty King James II intituled "An Act to enable the Inhabitants of the Parish of St. Anne, within the Liberty of Westminster, to raise Money to build a Church to be the Parish Church there" further provision was made in relation to the erection of a church in the former parish;

And whereas thereafter the church of Saint Anne, Soho (hereafter called "the former church") and a rectory house were completed and a burial ground (hereafter called "the burial ground") was laid out, and the former church and burial ground were consecrated separately on the 21st March, 1686:

c. 72.

And whereas by the year 1800 it had become necessary for the tower of the former church to be taken down and rebuilt, and in the forty-second year of the reign of His late Majesty King George III an Act was passed intituled "An Act for completing the rebuilding of the Tower of the Parish Church of Saint Anne, within the Liberty of Westminster in the County of Middlesex, and a new Vestry Room, Watch House, Engine House, and Vaults for the Use of the said Parish; and for repairing the said Church, improving the Church Yard, and making certain Regulations relating to the said Parish":

And whereas burials in the burial ground were discontinued by virtue of an Order in Council of Her late Majesty Queen Victoria dated the 8th August, 1853:

And whereas the building known as Saint Anne's House was erected on land adjacent to the former church in the year 1910 for use as a parish hall and clergy house:

And whereas the former church was severely damaged by enemy action in 1940 and little now remains of the fabric except the tower thereof:

No. 1.

And whereas by an order made by the Church Commissioners for England dated the 4th October, 1945, the former parish was declared to be an ecclesiastical reorganisation area for the purposes of the Reorganisation Areas Measure, 1944, and on the 27th February, 1953, the Church Commissioners by order in pursuance of the said Measure confirmed a scheme providing (inter alia) for the formation of a new united parish of Saint Anne with Saint Thomas and Saint Peter, Soho (hereafter called "the united parish") by the union of the former parish with the parishes of Saint Thomas, Regent Street, and Saint Peter, Great Windmill Street; for the demolition of the former church (except for the tower thereof) by the Diocesan Board of Finance of the diocese of London; and for the church of Saint Thomas, Regent Street, to become the parish church of the united parish:

c. 38.

And whereas the tower of the former church is included in the list of buildings of special architectural or historical interest deposited by the Minister of Housing and Local Government under the provisions of section 32 of the Town and Country Planning Act, 1962:

And whereas the former church (except the tower thereof) and Saint Anne's House are vested in the London Diocesan Fund, which is a company incorporated under the Companies Acts, 1908 to 1917, and is the Diocesan Board of Finance for the

diocese of London and the tower and the burial ground are vested in the incumbent of the benefice of the united parish, the Reverend John Frear Hester (hereafter called "the incumbent"):

And whereas it is expedient that the London Diocesan Fund and the incumbent should be authorised to arrange for the demolition of the remains of the former church (except the tower thereof) and Saint Anne's House, and to cause to be erected on the land described in the schedule to this Act or some part thereof a new church including the tower of the former church, together with a house of residence, a parish hall and other buildings and accommodation:

And whereas it is expedient that, upon the consecration for public worship of such a new church, that church should become the parish church of the united parish:

And whereas it is expedient that such provisions as are contained in this Act with respect to the sale, leasing, use and disposition of the site of the former church and of the burial ground, and the removal of any human remains interred therein, should be enacted:

And whereas the Right Reverend and Right Honourable Father in God, Robert, by divine permission Lord Bishop of London, has consented to the provisions of this Act:

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:—

1. This Act may be cited as the Saint Anne, Soho Act 1965. Short title.

2.—(1) In this Act, unless there be something in the subject or context repugnant to such construction— Interpretation.

"the Act of 1678", "the Act of 1685" and "the Act of 1802" mean respectively the Act of the thirtieth year of the reign of His late Majesty King Charles II, the Act of the first year of the reign of His late Majesty King James II and the Act of the forty-second year of the reign of His late Majesty King George III, referred to in the preamble to this Act; c. 7.
c. 20.
c. 72.

"the benefice" means the benefice of the parish;

"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 diocese ” means the diocese of London;
- “ the former church ” means the former church of Saint Anne, Soho;
- “ the fund ” means the London Diocesan Fund;
- “ the incumbent ” means the incumbent for the time being of the benefice or, during any period when the benefice is vacant, the bishop;
- “ the parish ” means the parish of Saint Anne with Saint Thomas and Saint Peter, Soho;
- “ the parochial church council ” means the parochial church council of the parish;
- “ the scheduled land ” means the land described in the schedule to this Act being the site of the former church, the site of Saint Anne’s House adjacent thereto and part of the burial ground appurtenant to the former church;
- “ the tower ” means the existing tower forming part of the remains of the former church.

(2) 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.

Preservation of tower and demolition of other remains of former church and Saint Anne’s House.

3.—(1) The tower shall be preserved in situ by and at the expense of the fund until the date upon which the new church referred to in subsection (3) of section 4 (Sale, etc., of part of scheduled land and application of proceeds) of this Act is consecrated, and thereafter shall be preserved in situ in perpetuity by and at the expense of the parochial church council.

(2) Subject to the provisions of subsection (1) of this section, the fund may cause or permit the remains of the former church and Saint Anne’s House adjacent thereto to be demolished and the materials thereof to be sold or otherwise disposed of as they think fit:

Provided that before the remains of the former church are demolished the fund shall arrange for the removal of all memorial stones or plaques therein or thereon which stones or plaques shall be preserved and installed in such other place or places as the incumbent and the parochial church council may approve.

(3) No licence or faculty of the consistory court of the diocese or other or further authority shall be requisite for the exercise of the powers conferred, and the performance of the obligations imposed, by this section.

Sale, etc., of part of scheduled land and application of proceeds.

4.—(1) For the purpose of the erection of the new church and other buildings and accommodation referred to in subsection (3) of this section the fund and the incumbent shall retain such respective interests in the scheduled land as may be requisite.

(2) Subject to the provisions of the foregoing subsection, the fund and the incumbent may, to the extent of their respective interests therein, sell, lease or otherwise dispose of the scheduled land, or any part thereof, for such price or consideration, in such manner and upon and subject to such terms and provisions as the fund may think fit.

(3) Any moneys received by the incumbent under this section shall be paid to the fund, and all moneys received by the fund under the last preceding section or this section shall be applied by the fund in or towards the cost of—

(a) the demolition of the remains of the former church and Saint Anne's House and the removal, preservation and installation of memorial stones and plaques pursuant to section 3 (Preservation of tower and demolition of other remains of former church and Saint Anne's House) of this Act;

(b) the removal of human remains pursuant to section 8 (Removal of human remains from scheduled land) of this Act;

(c) the erection, on the scheduled land, of—

(i) a new church for use as the parish church of the parish, including the tower and to be constructed in accordance with plans, specifications and particulars to be approved by the incumbent and the parochial church council;

(ii) a house of residence for the incumbent of the benefice;

(iii) a parish hall; and

(iv) such other buildings or accommodation as the incumbent and the parochial church council, with the approval of the fund, may think fit;

(d) the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto incurred by the fund under section 12 (Costs of Act) of this Act;

and any balance of the moneys received by the fund under this section shall be applied by the fund towards the cost of the provision, alteration, improvement, repair or restoration of churches throughout the diocese as the fund in their absolute discretion may determine.

5. As from the passing of this Act the scheduled land shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever (including the effects of consecration) which immediately before the passing of this Act attached thereto under ecclesiastical law or otherwise, and from all rights and

Discharge of trusts and restrictions affecting scheduled land and saving for private rights.

interests of any person who is an executor, administrator or relative of any deceased person whose remains are interred in the said land or any part thereof, 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 said land or any part thereof having been or formed the site of a church or the enclosure of a church, or having been used or set apart for the interment of human remains:

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 said land or any part thereof which attached thereto immediately before the passing of this Act.

Power to use scheduled land for other purposes.

6. Notwithstanding anything contained in any enactment, but subject to the provisions of this Act, it shall be lawful at any time to use, deal with or dispose of the scheduled land, or any part thereof, as if no part thereof had ever been or formed the site of a church or the enclosure of a church, or been used or set apart for the interment of human remains.

Projection of new buildings over adjoining land.

7.—(1) In this section “adjacent land” means the land abutting on the north-westerly boundary of the scheduled land and forming part of the burial ground appurtenant to the former church, now maintained as an open space under the control and management of the council of the city of Westminster.

(2) The new church, the house of residence or the parish hall referred to in paragraph (c) of subsection (3) of section 4 (Sale, etc., of part of scheduled land and application of proceeds) of this Act may with the written consent of the council of the city of Westminster but without further or other authority be so constructed as to project over the adjacent land for a distance not exceeding 12 feet measured from the north-westerly boundary of the scheduled land, but no part of such projection shall be constructed at a height less than 10 feet measured vertically from the existing surface level of the part of the adjacent land over which that projection extends.

Removal of human remains from scheduled land.

8.—(1) Before any person begins to use any part of the scheduled land for—

(a) the erection thereon or thereunder of any building; or

(b) any other purpose likely to involve the disturbance of human remains (any question as to which shall be determined by the Secretary of State, whose decision shall be final);

the fund shall give notice of their intention to remove, or cause to be removed, from that part of the scheduled land the remains of any deceased person found to have been interred therein by publishing a notice once in each of two successive weeks in a newspaper circulating in the city of Westminster with an interval between publications of not less than six days, and shall display a like notice in a conspicuous place on that part of the scheduled land and such notice shall have embodied in it the substance of subsections (2), (3), (4), (5), (6) and (7) of this section.

(2) 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 that part of the scheduled land may give notice in writing to the fund 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.

(3) If any person giving such notice as aforesaid shall fail to satisfy the fund 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 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.

(4) The expenses of such 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 fund, such sum to be apportioned if necessary equally according to the number of remains in the grave.

(5) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the fund in respect of the remains in any grave, or if after such notice has been given the person giving the same shall fail within one month to cause such remains to be removed in compliance with the provisions of this section, and with any regulation of the bishop, the fund, without any faculty for that purpose, shall 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 fund 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.

(6) Upon any removal of remains from the scheduled land a certificate of removal and reinterment shall be sent to the Registrar General by the fund 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.

(7) Any monument or tombstone relating to the remains of any deceased person removed under this section shall, at the expense of the fund, 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 fund and the fund 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 on it; and

(ii) 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 fund 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 fund, subject to the faculty jurisdiction within the diocese, 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 of Westminster.

Variation of
reorganisation
scheme.

No. 1.

9. Notwithstanding any provision in the scheme made under the Reorganisation Areas Measure, 1944, for the reorganisation of the former parishes of Saint Anne, Soho, Saint Thomas, Regent Street, and Saint Peter, Great Windmill Street, which was confirmed by an order made by the Church Commissioners for England on the 27th February, 1953, the following provisions shall have effect:—

(1) On the day upon which the new church referred to in subsection (3) of section 4 (Sale, etc., of part of scheduled land and application of proceeds) of this Act, having been made available for public worship, is consecrated the said church shall become the parish church of the parish in place of the church of Saint Thomas, Regent Street:

(2) On completion of the house referred to in the said subsection that house shall become the house of residence for the incumbent of the benefice.

10. The Act of 1678, the Act of 1685 and the Act of 1802 are Repeals hereby repealed.

11. The provisions of the Town and Country Planning Act, 1962, and any restrictions or powers thereby imposed or conferred in relation to land, shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Act. Saving for town and country planning. c. 38.

12. 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 fund. Costs of Act.

SCHEDULE

Section 2.

DESCRIPTION OF LAND REFERRED TO IN THE FOREGOING ACT.

A piece of land in the city of Westminster containing 13,641 square feet or thereabouts, situated on the west side of Dean Street and bounded by an imaginary line commencing at the south-east corner of Saint Anne's House, proceeding thence in a south-westerly direction along the southerly flank wall thereof for a distance of 25 feet 6 inches or thereabouts, thence continuing in the same direction along the rear boundaries of premises fronting Shaftesbury Avenue for a further distance of 54 feet 3 inches or thereabouts, thence in a northerly direction for 4 inches or thereabouts, thence in a south-westerly direction for 1 foot or thereabouts, thence in a south-easterly direction for 4 inches or thereabouts, thence in a south-westerly direction across the northern end of the passageway from Shaftesbury Avenue for a distance of 8 feet 9 inches or thereabouts, thence in a northerly direction for 4 inches or thereabouts, thence in a south-westerly direction for 1 foot or thereabouts, thence in a south-easterly direction for 4 inches or thereabouts, thence in a south-westerly direction for a distance of 9 feet 6 inches or thereabouts to the south-east corner of gardens under the control of the council of the city of Westminster, thence in a north-westerly direction along the boundary of the said gardens for a distance of 38 feet 3 inches or thereabouts, thence in a north-easterly direction for $4\frac{1}{2}$ inches or thereabouts to the south-west corner of the church, thence in a north-westerly direction for a distance of 3 feet 3 inches or thereabouts, thence in a north-easterly direction for $4\frac{1}{2}$ inches or thereabouts, thence in a north-westerly direction for a distance of 14 feet 8 inches or thereabouts, thence in a south-westerly direction for $4\frac{1}{2}$ inches or thereabouts, thence in a north-westerly direction to the south-east corner of the tower for a distance of 5 feet 2 inches or thereabouts, thence continuing in the same direction along the base of the tower to the north-east corner thereof for a further distance of 25 feet 6 inches or thereabouts, thence continuing in the same direction for a further distance of 5 feet 1 inch or thereabouts, thence in a north-easterly direction for $4\frac{1}{2}$ inches or thereabouts, thence in a north-westerly direction for a distance of 14 feet 5 inches or thereabouts, thence in a south-westerly direction for $4\frac{1}{2}$ inches or thereabouts, thence in a north-westerly direction for a distance of 3 feet 5 inches or thereabouts to the north-west corner of the church, thence in a south-westerly direction for $4\frac{1}{2}$ inches or thereabouts, thence in a north-westerly direction for a distance of 40 feet 6 inches or thereabouts, to the north-east corner of the said gardens, thence in a generally north-easterly direction along the rear boundaries of premises fronting Old Compton Street for a total distance of 66 feet 7 inches or thereabouts, thence in a south-easterly direction for a distance of 24 feet $6\frac{1}{2}$ inches or thereabouts, thence in a north-easterly direction towards Dean Street for a distance of 36 feet 4 inches or thereabouts, thence in a southerly direction for a distance of 15 feet 9 inches or thereabouts along the west side of Dean Street to the north-east corner of the church, thence in a south-easterly direction for a distance of 18 feet or thereabouts, thence in a north-easterly direction for a distance

of 2 feet 7 inches or thereabouts, thence in a south-easterly direction for a distance of 10 feet or thereabouts, thence in a north-easterly direction for 8 inches or thereabouts, thence in a south-easterly direction for a distance of 15 feet or thereabouts, thence in a south-westerly direction for 8 inches or thereabouts, thence in a south-easterly direction for a distance of 10 feet or thereabouts, thence in a south-westerly direction for a distance of 2 feet 7 inches or thereabouts, thence in a south-easterly direction to the north-east corner of Saint Anne's House for a distance of 18 feet or thereabouts, thence continuing in a south-easterly direction for a distance of 36 feet 9 inches or thereabouts along the boundary of Saint Anne's House to the point of commencement.

SCH.
—cont.



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Saint Anne, Soho Act 1965

CHAPTER V

ARRANGEMENT OF SECTIONS

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SCHEDULE.—Description of land referred to in the foregoing Act.