

**ELIZABETH II**



**1966 CHAPTER XXI**

An Act to free part of the burial ground appurtenant to the church of Saint Mary, Ealing from the restrictions attaching to it as a disused burial ground; to authorise the use thereof for other purposes; and for purposes incidental thereto. [9th August 1966]

**W**HEREAS the land described in the schedule to this Act (hereafter called "the scheduled land") has for many years past been laid out as a burial ground, together with other land adjacent thereto:

And whereas the church of Saint Mary, Ealing (hereafter called "the church") was erected in or about the year 1739 on land adjacent to the scheduled land, was substantially rebuilt in or about the year 1790 and was further reconstructed and enlarged, and reconsecrated, in or about the year 1866:

And whereas burials in the scheduled land have for many years past been discontinued:

And whereas the freehold of the scheduled land is vested in the incumbent of the benefice of Saint Mary, Ealing and the present incumbent thereof is the Reverend George Hayward Perman (hereafter called "the incumbent"):

1956 No. 3.

And whereas the Diocesan Board of Finance for the diocese of London is a company incorporated under the Companies Acts, 1908 to 1917, by the name of "the London Diocesan Fund" (hereafter called "the fund") and the fund is the diocesan authority within the meaning of the Parochial Church Councils (Powers) Measure, 1956:

And whereas the incumbent and the fund are desirous of making provision for the construction, in connection with the church, of a new parsonage house on the land described in Part I of the schedule to this Act and a church hall and other buildings or accommodation on the land described in Part II of that schedule:

And whereas it is expedient to vest the land described in Part II of the schedule to this Act in the fund for the purposes aforesaid:

And whereas it is expedient that such provisions as are contained in this Act with respect to the removal of human remains interred in the scheduled land 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:—

Short title.        1. This Act may be cited as the Saint Mary, Ealing Act 1966.

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

“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 borough ” means the London borough of Ealing;

“ the diocese ” means the diocese of London;

“ the church ” means the church of Saint Mary, Ealing;

“ the existing vicarage ” means the existing house of residence for the incumbent situate at St. Mary’s Road in the borough;

“ the fund ” means the London Diocesan Fund;

“ the incumbent ” means the incumbent for the time being of the benefice of the parish of Saint Mary, Ealing or, during any period when that benefice is vacant, the bishop;

“ the owner ” means the person in whom the scheduled land or any part thereof is for the time being vested;

“ the parochial church council ” means the parochial church council of the parish of Saint Mary, Ealing;

“ the scheduled land ” means the land described in the schedule to this Act being part of the burial ground appurtenant to the church;

“ the specified date ” means the date upon which the certificate referred to in section 6 (Diversion of public right of way) of this Act is issued to the fund.

(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.

3. Upon the passing of this Act the freehold of the land described in Part II of the schedule to this Act shall by virtue of this Act be vested in the fund as diocesan authority under the Parochial Church Councils (Powers) Measure, 1956.

Vesting of part of scheduled land.  
1956 No. 3.

4.—(1) Notwithstanding the provisions of any enactment, if the incumbent sells or otherwise disposes of the existing vicarage and land held therewith, or any part thereof, he shall pay or cause to be paid to the fund the net proceeds of such sale or disposal and all moneys so received by the fund shall be applied by them as follows:—

Application of certain moneys.

(a) in reimbursing to the incumbent the costs, charges and expenses incurred by him under section 10 (Costs of Act) of this Act;

- (b) in making the substituted footpath referred to in section 6 (Diversion of public right of way) of this Act and obtaining the certificate referred to in that section;
- (c) in defraying the costs and expenses of the removal and reinterment or cremation of human remains and removal or re-erection of tombstones under section 8 (Removal of human remains from scheduled land) of this Act;
- (d) in the construction, on the land described in Part I of the schedule to this Act, of a parsonage house for the incumbent to a design and specification approved by the incumbent and the Church Commissioners for England, and in payment of expenses incurred by the incumbent in moving from the existing vicarage to the new parsonage house to such extent as the fund may think fit;

and any remaining balance shall be applied by the fund—

- (e) as to the first ten thousand pounds thereof, in establishing a fund to be held upon trust to apply the same or any part thereof (including accumulated interest thereon) at the request of the parochial church council in defraying the cost of repairs to the fabric of the church;
- (f) as to the next seventeen thousand pounds thereof, in establishing a fund to be paid to the Church Commissioners for England as endowment capital of the benefice and held and applied by them in accordance with the provisions of subsection (2) of section 4 of the Benefices (Stabilization of Incomes) Measure, 1951;
- (g) as to any residue thereof, for such ecclesiastical purposes within the diocese as may be charitable and as the bishop may from time to time approve.

1951 No. 5.

1938 No. 3.

(2) On the completion of the new parsonage house referred to in paragraph (d) of the last foregoing subsection that house shall for the purposes of the Parsonages Measure, 1938, or any statutory modification or re-enactment thereof, become the house of residence for the incumbent.

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

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 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 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.

6.—(1) In this section—

Diversion  
of public  
right of way.

“the church path” means the path on the eastern, north-eastern and northern sides of the church connecting Church Place with the drinking fountain at the junction of Ranelagh Road and St. Mary’s Road;

“the existing footpath” means the existing public footpath across the scheduled land connecting Baillie’s Walk with the church path;

“the substituted footpath” means a footpath (having where practicable a clear width of not less than 5 feet) connecting Baillie’s Walk and the church path and running along the eastern, south-eastern and southern boundaries of the land described in Part I of the schedule to this Act.

(2) At any time after the passing of this Act the fund may make or cause to be made the substituted footpath, and after the substituted footpath has been completed shall give notice of the completion thereof to the council of the borough.

(3) Within twenty-one days after service upon them of such notice the council of the borough shall cause the substituted footpath to be surveyed and if satisfied that the substituted footpath is in a fit condition for use by the public in substitution for the existing footpath shall forthwith issue to the fund a certificate to that effect (which certificate shall not unreasonably be withheld) and upon the issue of such certificate the substituted footpath shall become a footpath dedicated to the public and maintainable at the public expense, and all rights of way over the existing footpath shall be extinguished.

7. 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 for the owner to use, deal with or dispose of the scheduled land for any purpose in like manner as if no part thereof had ever been used or set apart for the interment of human remains.

Power to  
use scheduled  
land for  
other  
purposes.

Removal of human remains from scheduled land.

8.—(1) Before the owner 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 owner shall give notice of his 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 borough 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), (7) and (8) 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 owner 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) or to be removed to and cremated in any crematorium.

(3) If any person giving such notice as aforesaid shall fail to satisfy the owner 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 or cremation (not exceeding in respect of remains removed from any one grave the sum of fifty pounds) shall be defrayed by the owner, 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 owner in respect

of the remains in any grave, or if after such notice has been given the person giving the same shall fail within two months to cause such remains to be removed in compliance with the provisions of this section, and with any regulation of the bishop, the owner, 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 owner 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) or cremated in such crematorium as the owner thinks suitable for the purpose.

(6) Upon any removal of remains from any part of the scheduled land a certificate of removal and reinterment or cremation shall be sent to the Registrar General by the owner giving the dates of removal and reinterment or cremation respectively and identifying the place from which the remains were removed and the place in which they were reinterred or cremated 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 owner, be removed and re-erected at the place of reinterment or cremation 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 owner and 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 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 owner 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 owner, subject to the faculty jurisdiction within the diocese, may direct.

(8) The removal of the remains of any deceased person under this section shall in relation to matters falling within the functions of the medical officer of health of the borough, be carried out under the supervision and to the reasonable satisfaction of that officer.

Saving for  
town and  
country  
planning.  
1962 c. 38.

9. 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.

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 incumbent.



## SCHEDULE

Section 2.

## DESCRIPTION OF LAND REFERRED TO IN THE FOREGOING ACT

## PART I

## LAND FOR THE CONSTRUCTION OF A PARSONAGE HOUSE

A piece of land in the London borough of Ealing containing 16,490 square feet or thereabouts, situated to the south-east of Saint Mary's Church and bounded by a line commencing at a point on the northern boundary of Church Place where the eastern boundary of the church path joins the said boundary of Church Place, and proceeding thence in a northerly direction from Church Place for a distance of 80 feet 5 inches or thereabouts along the said eastern boundary of the said church path, thence in an easterly direction for a distance of 175 feet 5 inches or thereabouts to the western end of the northern boundary of Baillie's Walk, thence in a southerly direction for a distance of 68 feet 1 inch or thereabouts to and along the western boundary of land now used as allotment gardens, thence in a south-westerly direction for a distance of 21 feet or thereabouts to the northern boundary of the passageway adjoining Grange School, thence in a generally westerly direction for a distance of 201 feet or thereabouts along the said northern boundary of the last-mentioned passageway and the before-mentioned northern boundary of Church Place to the point of commencement.

## PART II

## LAND FOR THE CONSTRUCTION OF A CHURCH HALL

A piece of land in the London borough of Ealing containing 19,621 square feet or thereabouts, situated to the east of Saint Mary's Church and adjoining the land described in Part I of this schedule and bounded by a line commencing at a point on the eastern boundary of the church path 80 feet 5 inches measured in a northerly direction along the said eastern boundary from the point of junction of the said boundary with the northern boundary of Church Place and proceeding in a north-easterly direction for a distance of 55 feet 2 inches or thereabouts along the said eastern boundary of the said church path, thence in a northerly direction for a distance of 12 feet 5 inches or thereabouts along the said eastern boundary, thence continuing in a straight line in approximately the same direction for a distance of 12 feet 11 inches or thereabouts, and thence for a further distance of 64 feet 5 inches or thereabouts to a point on the boundary at the rear of premises being Nos. 2 to 14 Ranelagh Road 47 feet 9 inches or thereabouts measured in an easterly direction from the point of intersection of the last-mentioned boundary and the eastern boundary of the before-mentioned church path, thence in an easterly direction for a distance of 160 feet 9 inches or thereabouts along the said boundary at the rear of Nos. 2 to 14 Ranelagh Road to the western boundary of the passageway separating Nos. 14 and 16 Ranelagh Road, thence in a southerly direction for a distance of 112 feet or thereabouts along the western boundary of the said passageway and of premises known as Rose Cottage to the western end of the northern boundary of Baillie's Walk, thence in a westerly direction for a distance of 178 feet 4 inches or thereabouts along the northern boundary of the land described in Part I of this schedule to the point of commencement.

---

PRINTED BY THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., FOR

SIR PERCY FAULKNER, K.B.E., 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. 6d. net

PRINTED IN ENGLAND



# Saint Mary, Ealing Act 1966

## CHAPTER xxi

### ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Vesting of part of scheduled land.
4. Application of certain moneys.
5. Discharge of trusts and restrictions affecting scheduled land and saving for private rights.
6. Diversion of public right of way.
7. Power to use scheduled land for other purposes.
8. Removal of human remains from scheduled land.
9. Saving for town and country planning.
10. Costs of Act.

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

Part I—Land for the construction of a parsonage house.

Part II—Land for the construction of a church hall.