

ELIZABETH II



1970 CHAPTER lxxi

An Act to authorise the sale of the burial ground attached to or comprised in the West End Baptist Church, Hammersmith and premises appurtenant thereto; to authorise the use of the said burial ground for building or otherwise; and for purposes incidental thereto.

[17th December 1970]

WHEREAS the existing Baptist Church at Hammersmith, London, known as the West End Baptist Church, Hammersmith, was constructed in or about the year 1851 on a site having a frontage to King Street, Hammersmith, for the purpose of public worship according to the principles and usages of the Baptist denomination:

And whereas adjacent to the said church there are two halls and a house used as caretaker's accommodation, all constructed at later dates than the said church:

And whereas there is appurtenant to the said church certain other land (which appurtenant land and the sites of the church and the said halls and house are together hereafter referred to as "the church land"):

And whereas the church land, or some part thereof, was formerly used as a burial ground for the interment of human remains, but the last known interment was in the nineteenth century, and the burial ground has long been disused:

1925 c. 20. And whereas the London Baptist Property Board Limited (hereafter called "the Board") is a company incorporated under the Companies Acts 1862 to 1900 having for its main object the advancement of the Christian religion in particular by the means and in accordance with the principles of the Baptist denomination and is a trust corporation within the meaning of the Law of Property Act 1925 with power to act as trustee of any property vested in the Board:

And whereas the freehold of the church land is now vested in the Board:

1962 c. 38. And whereas the church is not included in the list of buildings of special architectural or historic interest deposited under the provisions of section 32 of the Town and Country Planning Act 1962:

And whereas the church and associated buildings are unsuitable and inconvenient for their present purpose and the needs of the Baptist denomination in the locality could be better met by the provision of a smaller church auditorium and associated purpose-built church premises on a part of the church land:

And whereas it is expedient that the Board should dispose of so much of the church land as is not required for the construction of the said smaller church auditorium and associated church premises, including the existing church and other premises erected thereon, and that the church land should be freed from all restrictions which may affect the same by reason of the church land having been used as a burial ground or otherwise:

And whereas it is therefore expedient that such provisions as are contained in this Act with respect to the sale of the church land and the removal therefrom of any human remains interred therein should be enacted:

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 West End Baptist Church, Short title. Hammersmith Act 1970.

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

“ the Board ” means the London Baptist Property Board Limited;

“ the church land ” means the land described in the schedule to this Act;

“ enactment ” has the same meaning as in the Town and Country Planning Act 1962; 1962 c. 38.

“ the owner ” means the person in whom the church land is for the time being vested.

(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.—(1) The Board may sell, lease or otherwise dispose of the church land, or any part thereof, for such price or consideration, in such manner and upon and subject to such terms and conditions as the Board may think fit. Power to sell church land and application of proceeds.

(2) The proceeds of any sale or other disposition effected under the powers conferred by this section shall be paid to the Board, who may deduct or recoup therefrom the amount of any costs, charges and expenses incurred by the Board under section 8 (Costs of Act) of this Act, or in connection with the aforesaid sale or other disposition.

4. As from the passing of this Act the church land shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions relating or appertaining to the use or setting apart of that land as a place for the interment of human remains which immediately before the passing thereof attached thereto, 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 church land or any part thereof: Discharge of trusts, etc., and saving for private rights.

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

Power to use church land for other purposes.

5. 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 church land, or any part thereof, for 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 from church land.

6.—(1) Before the owner begins to use any part of the church land for any purpose likely to involve the disturbance of human remains, he shall give notice of his intention to remove, or cause to be removed, from that part of the church land the remains of any deceased person found interred therein by publishing a notice once in each of two successive weeks in a newspaper circulating in the London borough of Hammersmith, with an interval between publication of not less than six days, and shall display a like notice in a conspicuous place on that part of the church land and such notice shall have embodied in it the substance of the following provisions 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 church 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 to cause such remains to be removed to and re-interred in any burial ground or cemetery in which burials may legally take place, or removed to and cremated in any crematorium, and forthwith after such re-interment or cremation shall provide to the owner a certificate for the purpose of enabling the owner to comply with the provisions of subsection (6) of this section.

(3) (a) 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, the question shall be determined on the application of either party in a summary manner 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.

(b) Any jurisdiction or power conferred on the county court by this subsection may be exercised by the registrar of the court.

(4) The expenses of such removal and re-interment or cremation (not exceeding in respect of remains removed from any one grave

the sum of seventy-five 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—

- (a) 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
- (b) within two months after such notice has been given no application has been made under subsection (3) of this section and the person who gave the notice fails to remove the remains; or
- (c) within two months after any order is made by the county court under the said subsection any person other than the owner specified in the order fails to remove the remains;

the owner shall remove the remains of the deceased person and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place, or removed to and cremated in such crematorium, as the owner thinks suitable for the purpose.

(6) Upon any removal of remains from the church land a certificate of removal and 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, showing the particulars of each removal separately.

(7) (a) Subject to the provisions of this subsection, any monument or tombstone relating to the remains of a deceased person removed under this section shall, at the request of such personal representative or relative as aforesaid and at the expense of the owner, be removed to and re-erected at the place of re-interment or cremation of such remains or at such other suitable place as may be agreed between such personal representative or relative and the owner, or, in default of such agreement, as the county court may direct on the application of such personal representative or relative, or of the owner.

(b) The owner shall cause a record to be made of each monument and tombstone taken from the church land 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.

(c) 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, the owner may dispose of the monument or tombstone in such manner as he thinks fit.

(8) 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.

(9) In order that the requirements of this section relating to the removal of human remains from the church land described in the schedule to this Act shall be recorded in perpetuity a copy of this Act, certified by or on behalf of the Secretary of State to be a true copy, shall be deposited with the town clerk of the London borough of Hammersmith and shall be registered in the register of local land charges, in such manner as may be prescribed by the Land Charges Act 1925 by the town clerk of the council of the said London borough.

1925 c. 22.

Saving for
Town and
Country
Planning
Acts.

1962 c. 38.

7. Section 220 of the Town and Country Planning Act 1962 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the session of the 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Act as if it had been passed during that session; and accordingly the Town and Country Planning Acts 1962 to 1968 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

Costs of Act.

8. All 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 in the first instance be paid by the Board.

SCHEDULE

DESCRIPTION OF CHURCH LAND

All that piece of land in the London Borough of Hammersmith, containing 20,150 square feet or thereabouts, having a frontage to King Street of 91 feet or thereabouts and an overall depth of 275 feet or thereabouts and comprising the site of the West End Baptist Church and land appurtenant thereto together with the said church, and the halls, caretaker's residence and other buildings constructed thereon.

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West End Baptist Church, Hammersmith Act 1970

CHAPTER lxxi

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SCHEDULE—Description of church land.