

All Hallows the Great Churchyard Act, 1958

6 & 7 ELIZ. 2 Ch. XXV

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CHAPTER xxv

An Act to authorise the sale of the churchyard appurtenant to the former church of All Hallows the Great in the city of London to authorise the erection of buildings thereon and for other purposes.

[7th July 1958.]

WHEREAS the church of All Hallows the Great in the city of London (hereinafter called "the church") was destroyed in the Great Fire of London in the year sixteen hundred and sixty-six and was subsequently rebuilt:

And whereas the parish of All Hallows the Great was subsequently united with the parish of All Hallows the Less:

And whereas the united parish of All Hallows the Great and Less was united with the parish of Saint Michael Paternoster Royal (in the Order in Council next hereinafter referred to called "Saint Michael Royal") with Saint Martin Vintry by Order in Council of Her late Majesty Queen Victoria dated the sixteenth day of May eighteen hundred and ninety-three and the said Order directed that the church should be demolished and the site thereof sold by the Ecclesiastical Commissioners for England and that part of the proceeds of sale should be paid to the rector and churchwardens of the united parish of Saint Michael Paternoster Royal with Saint Martin Vintry and All Hallows the Great and Less for the maintenance of the churchyard appurtenant to the church (and of the churchyard appurtenant to the former church of All Hallows the Less):

And whereas it was provided by section 31 (Saint Michael Paternoster Royal and All Hallows the Great) of the City of London (Guild Churches) Act 1952 that upon the church of Saint Michael Paternoster Royal becoming a guild church in pursuance of that Act the churchyard belonging to the demolished church of All Hallows the Great together with the room erected thereon should be deemed to be part of the churchyard belonging to the church of Saint Michael Paternoster Royal:

15 & 16 Geo. 6
& 1 Eliz. 2 c.
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And whereas the church of Saint Michael Paternoster Royal has become a guild church in pursuance of the said Act of 1952:

And whereas the said Act of 1952 provided that the vicar of a guild church should in relation to the guild church and its churchyard possess all the rights and privileges and discharge all the duties possessed and discharged by the incumbent of a parish in relation to the church and churchyard of the parish of which he is the incumbent:

And whereas the freehold of the churchyard appurtenant to the demolished church of All Hallows the Great is thus now vested in the vicar of the guild church of Saint Michael Paternoster Royal and the present vicar thereof is the Reverend Canon Herbert Montague Waddams:

And whereas burials in the said churchyard were discontinued by Order in Council of Her late Majesty Queen Victoria dated the fifteenth day of April eighteen hundred and fifty-nine:

And whereas it is expedient that the said churchyard should be sold and that the purchaser thereof should be entitled to develop the same:

And whereas it is expedient that such provisions as are contained in this Act with respect to the sale and development of the said churchyard 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 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:—

Short title.

1. This Act may be cited as the All Hallows the Great Churchyard Act 1958.

Interpretation.

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

“ 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 churchyard ” means the lands comprised in the churchyard appurtenant to the former church of All Hallows the Great in the city of London which said lands are described in the schedule hereto and are shown and coloured pink on a plan marked “ Plan of All Hallows the Great Churchyard ” signed in triplicate by the Right Honourable the Lord Merthyr the chairman of the committee of the House of Lords to whom 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 and one at No. 1 The Sanctuary in the city of Westminster being the office of Messrs. Lee Bolton and Lee the solicitors to the Vicar;

“the corporation” means the mayor commonalty and citizens of the city of London;

“the council” means the mayor aldermen and commons of the city of London in common council assembled;

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

“the fund” means the London Diocesan Fund;

“the guild church” means the guild church of Saint Michael Paternoster Royal;

“the guild church council” means the guild church council of the guild church;

“the owner” means the person in whom the churchyard is for the time being vested;

“the Vicar” means the vicar for the time being of the guild church or during any period when that office is vacant the bishop.

3.—(1) The Vicar may sell the churchyard or any part thereof for such price or consideration in such manner and upon and subject to such terms as the Vicar may think fit. Power to sell
churchyard
and application
of proceeds.

(2) The Vicar after deducting the amount of the cost of and in connection with the removal of human remains incurred by the Vicar under section 6 (Removal of human remains from churchyard) of this Act and the amount of any costs charges and expenses incurred by the Vicar under section 9 (Costs of Act) of this Act or in connection with any sale shall pay the net proceeds of any sale effected under the powers conferred by this section to the fund.

(3) All moneys received by the fund under this section shall be dealt with by the fund in accordance with the following provisions of this subsection:—

(a) the fund shall first apply the said moneys in defraying the cost of providing a hall to be used for religious purposes and purposes ancillary thereto in connection with the guild church or as an enlargement for those purposes of the guild church such hall being under the control of the guild church council;

(b) the fund shall apply any balance of the moneys received by them under this section towards the cost of restoring and re-equipping the guild church in accordance with plans specifications and particulars approved or to be approved by the Vicar and the guild church council.

(4) The carrying out by the fund of the provisions of paragraphs (a) and (b) of subsection (3) of this section shall be subject to the Vicar obtaining any necessary licence or faculty of the Consistory Court of the Diocese of London.

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

4. As from the passing of this Act the churchyard shall be freed and discharged from all trusts uses obligations disabilities and restrictions whatsoever which immediately before the passing thereof attached thereto 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 whatsoever which attached thereto immediately before the passing of this Act by reason of the churchyard or any part thereof being a disused burial ground or forming the churchyard or enclosure of a church or otherwise:

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

Power to use churchyard for building or 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 churchyard 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 or had ever been or formed the churchyard or enclosure of a church.

Removal of human remains from churchyard.

6.—(1) Before the owner erects or causes to be erected any building on the churchyard or uses the churchyard or causes the same to be used for any purpose other than as a burial ground the Vicar 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 Vicar 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 of London with an interval between publications 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) and (8) of this section.

(3) At any time within two months after the first publication of such notice any person who is an heir executor administrator or relative of any deceased person whose remains are interred in the churchyard or any part thereof may give notice in writing to the Vicar 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.

(4) If any person giving such notice as aforesaid shall fail to satisfy the Vicar that he is such heir executor administrator 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 of London 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 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 Vicar such sum to be apportioned if necessary equally according to the number of remains in the grave.

(6) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the Vicar in respect of the remains in any grave or if after such notice has been given the person giving the same shall fail to comply with the provisions of this section and with any regulation of the bishop the Vicar may without any faculty for the purpose 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 Vicar 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) All monuments and tombstones relating to the remains of any deceased person removed under this section shall at the expense of the Vicar 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 heir executor administrator or relative as aforesaid or failing such application on the application of the Vicar and the Vicar shall cause a record to be made of each monument and tombstone taken from the churchyard 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 showing where it has been taken to;

and shall deposit a copy of the record with the Registrar General.

(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 London.

7. All objects of geological or antiquarian interest discovered on or under the churchyard during the execution of any works therein by the owner shall subject to the rights of the Crown and except so far as they may be the property of any other person be

Deposit of
objects of
interest.

carefully preserved and removed and shall be deposited in the Guildhall Museum as the property of the corporation and the corporation acting by the council shall during the execution of any such works have power to enter and inspect such works for the purposes of this section.

Saving for
town and
country
planning.

8. 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 (Development orders) and subsection (1) of section 118 (Application to land regulated by special enactments) of that Act.

Costs of Act.

9. All the costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Vicar.

SCHEDULE

DESCRIPTION OF THE LAND DEALT WITH BY THE FOREGOING ACT.

A piece of land in the city of London containing three thousand one hundred and thirty-five square feet or thereabouts bounded on the north by premises known as number 89 Upper Thames Street on the south by premises known as the Thames Garages on the east by Campion Lane and on the west in part by premises known as the Thames Garages and in part by All Hallows Lane.

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