

Saint Stephen Bristol (Burial Grounds etc.) Act, 1960

8 & 9 ELIZ. 2 Ch. xviii

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Discharge of trusts and restrictions affecting scheduled lands and saving for private rights.
4. Power to sell scheduled lands and application of proceeds.
5. Power to use scheduled lands for building or other purposes.
6. Removal of human remains from scheduled lands.
7. Deposit of objects of interest.
8. As to existing vestry.
9. Saving for town and country planning.
10. Costs of Act.

SCHEDULE—

Description of the scheduled lands—

Part I—The school playground site.

Part II—The chapel site.

**CHAPTER xviii**

An Act to authorise the sale of certain disused burial grounds attaching to the former parish of Saint Nicholas with Saint Leonard Bristol and the erection of buildings thereon to provide for the application of the proceeds of sale thereof and for other purposes.

[2nd June 1960.]

WHEREAS the church of Saint Nicholas in the city of Bristol was virtually destroyed by enemy action in the year nineteen hundred and forty and has not been rebuilt:

And whereas pursuant to a reorganisation scheme prepared by the Church Commissioners in pursuance of the Reorganisation Areas Measure 1944 and confirmed by an order made under the common seal of the said commissioners and dated the ninth day of December nineteen hundred and fifty-eight the parish of Saint Nicholas with Saint Leonard Bristol was united with the parishes of Saint Stephen and All Saints in the said city as a combined parish under the style of "the parish of Saint Stephen with Saint Nicholas and Saint Leonard and All Saints Bristol":

And whereas the appurtenances of the former parish of Saint Nicholas with Saint Leonard include certain lands being respectively land at one time used as a playground for the purposes of and adjacent to the former Saint Nicholas Church Schools (which land is more particularly described in Part I of the schedule to this Act and is hereinafter called "the school playground site")

and land adjoining Crow Lane in the said city of Bristol comprising the site of the former Saint John's Chapel (which land is more particularly described in Part II of the said schedule to this Act and is hereinafter called "the chapel site"):

And whereas the Saint Nicholas Church Schools were virtually destroyed by enemy action in the year nineteen hundred and forty and have not been rebuilt and the school playground site is no longer needed for the purpose of the said schools:

And whereas Saint John's Chapel has long ceased to exist as a building and the site thereof is in a derelict condition:

And whereas both the school playground site and the chapel site are believed at some time to have been used for the interment of human remains but neither has been used for that purpose for upwards of one hundred years:

And whereas the churchyard appurtenant to and adjoining the church of Saint Stephen in the said city of Bristol (now known as Saint Stephen's garden) was formerly used for the interment of human remains but has not been used for that purpose since the year eighteen hundred and fifty-four when burials therein were discontinued pursuant to an Order in Council of Her late Majesty Queen Victoria dated the seventh day of April in that year:

And whereas the freehold of the school playground site and the chapel site is now vested in the incumbent of the united benefice of Saint Stephen with Saint Nicholas and Saint Leonard and All Saints Bristol and the present incumbent thereof is the Reverend Samuel Mostyn Forbes Woodhouse:

And whereas it is expedient that any restrictions attaching to the school playground site and the chapel site as former burial grounds should be removed and that the same should be sold and that any purchaser thereof should be enabled to develop the same:

And whereas it is expedient that the proceeds of sale of the school playground site and the chapel site should be applied (inter alia) in the provision of new vestries appurtenant to the said church of Saint Stephen Bristol and in the adaptation for use as a church hall of the existing vestry or vestries appurtenant to the said church and that the said existing vestry or vestries should after such adaptation be so used:

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 school playground site and the chapel site should be enacted:

And whereas it is expedient that the several 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 Stephen Bristol (Burial Short title. Grounds etc.) Act 1960.

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

“ the benefice ” in relation to the scheduled lands or any part thereof means the benefice of Saint Stephen with Saint Nicholas and Saint Leonard and All Saints Bristol or any benefice in which those lands or any part thereof may from time to time be situate;

“ the bishop ” means the Bishop of Bristol for the time being and during a vacancy in the see of Bristol includes the guardian of the spiritualities thereof;

“ the board ” means the Diocesan Board of Finance for the diocese;

“ the church ” means the church of Saint Stephen Bristol;

“ the church council ” means the parochial church council of Saint Stephen with Saint Nicholas and Saint Leonard and All Saints Bristol;

“ the diocese ” means the diocese of Bristol;

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

“ the incumbent ” means the incumbent for the time being of the benefice or during any period when the benefice is vacant the bishop;

“ the new vestries ” means new vestries to be erected or provided in the church or adjacent thereto in Saint Stephen's garden and “ the existing vestry ” means the vestry or vestries appurtenant to the church as the same existed at the passing of this Act;

“ the owner ” means the person in whom the school playground site and the chapel site or either of those sites or any part thereof respectively is for the time being vested;

“ the scheduled lands ” means the lands respectively described in the schedule hereto which said lands are shown and coloured pink on a plan marked “ Plan of the scheduled lands ” signed in triplicate by Sir William Anstruther-Gray the Chairman of the Committee of the House of

Commons 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 House of Commons and one at 23 Broad Street in the city of Bristol being the office of Messrs. Clarke Gwynn and Press the solicitors to the incumbent;

“the school playground site” means so much of the scheduled lands as is described in Part I of the schedule hereto “the chapel site” means so much of the scheduled lands as is described in Part II of the said schedule and “Saint Stephen’s garden” means the churchyard appurtenant to and adjoining the church.

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

3.—(1) As from the operative date but subject to the provisions of this Act the scheduled lands shall be freed and discharged from all trusts uses obligations disabilities and restrictions whatsoever which immediately before the passing of this Act attached thereto under ecclesiastical law 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 scheduled lands 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 scheduled lands or any part thereof being a disused burial ground or forming the churchyard or enclosures 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 scheduled lands or any part thereof which attached thereto immediately before the passing of this Act.

(2) In this section “the operative date” means in relation to the school playground site and the chapel site or either of those sites the date on which the incumbent exercises his power of sale of the site or part thereof under the provisions of section 4 (Power to sell scheduled lands and application of proceeds) of this Act.

Power to sell scheduled lands and application of proceeds.

4.—(1) The incumbent may sell the school playground site and the chapel site or either of those sites or any part thereof for such price or consideration in such manner and upon and subject to such terms as the incumbent may think fit.

(2) The incumbent after deducting the amount of the expenses incurred by him in connection with the removal of human remains under section 6 (Removal of human remains from scheduled lands) of this Act and the amount of any costs charges and expenses incurred by him under section 10 (Costs of Act) of this

Act or in connection with any sale effected under the powers conferred by this section shall pay to the board the net proceeds of any such sale.

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

- (a) the board shall first apply the said moneys in or towards defraying the cost of providing the new vestries and of adapting and converting the existing vestry for use as a church hall;
- (b) the board shall retain any balance of the moneys received by them under this section on trust for the church council and shall at the request of the church council apply the same towards the cost of restoring re-equipping altering or maintaining the church and the appurtenances thereof in accordance with plans specifications and particulars approved or to be approved by the incumbent and the church council.

(4) The carrying out by the board of the provisions of subsection (3) of this section shall be subject to the incumbent obtaining any necessary licence or faculty of the consistory court of the diocese.

5. Notwithstanding anything contained in any enactment but subject to the provisions of this Act it shall be lawful at any time after the date on which the incumbent sells the scheduled lands or any part thereof for the scheduled lands or that part thereof as the case may be to be used dealt with or disposed of for building or for any other purpose in like manner as if no part thereof had ever been consecrated or formed the site or enclosures of a church or had ever been used or set apart for the purpose of burial of human remains or had ever been or formed the churchyard of a church. Power to use scheduled lands for building or other purposes.

6.—(1) Before the owner erects or causes to be erected any building on the school playground site or on the chapel site or on such part thereof respectively as may be vested in the owner the incumbent shall remove or cause to be removed from the school playground site or the chapel site or that part thereof as the case may be the remains of all deceased persons interred therein. Removal of human remains from scheduled lands.

(2) Before proceeding to remove any of such remains the incumbent 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 Bristol with an interval between the dates of publication of not less than six clear days and by displaying the notice in a conspicuous place on the scheduled lands or that part thereof to which the notice relates and the 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 executor administrator or relative of any deceased person whose remains are interred in the scheduled lands or that part thereof to which the notice relates may give notice in writing to the incumbent of his intention to undertake the removal of those 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 the 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 parish concerned.

(4) If any person giving such notice as aforesaid fails to satisfy the incumbent that he is such 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 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 a 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 incumbent and shall 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 has been given to the incumbent in respect of the remains in any grave or if after such a notice has been given the person giving it fails to comply with either a provision of this section or a regulation of the bishop the incumbent may without any faculty for that purpose remove the remains of the deceased person and cause them to be reinterred in such other consecrated burial ground or cemetery in which burials may legally take place as subject to the consent of the bishop the incumbent thinks suitable for the purpose but in the case of interment in a churchyard the previous consent of the incumbent of the parish concerned shall also be required.

(7) Upon any removal of remains from any part of the scheduled lands a certificate of removal and reinterment shall be sent to the Registrar-General by the incumbent 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 and every such certificate shall be deposited at the General Register Office Somerset House London with the miscellaneous records in the custody of the Registrar-General.

(8) Any monument or tombstone relating to the remains of any deceased person removed under this section shall at the

expense of the incumbent be removed and unless it is not intended to preserve it the monument or tombstone shall be re-erected at the place of reinterment of the remains or at such place as the bishop may direct on the application (if any) of such executor administrator or relative as aforesaid or failing such application on the application of the incumbent and the incumbent shall cause a record to be made of each monument and tombstone taken from the scheduled lands 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.

(9) 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 Bristol.

7. All objects of geological or antiquarian interest discovered on or under any part of the scheduled lands during the execution of any works therein shall subject to the rights of the Crown and except so far as they may be the property of any other person be carefully preserved and removed and shall be deposited in the Bristol Museum and Art Gallery in the city of Bristol as the property of the church council. Deposit of objects of interest.

8. As from the completion and bringing into use of the new vestries and the adaptation and conversion of the existing vestry for use as a church hall it shall be lawful for the church council to use the existing vestry for such religious purposes or purposes ancillary thereto as shall facilitate or promote the work of the church. As to existing vestry.

9. 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 purposes of subsection (4) of section 13 (Development orders) and subsection (1) of section 118 (Application to land regulated by special enactments) of that Act. Saving for town and country planning.

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. Costs of Act.

SCHEDULE

DESCRIPTION OF THE SCHEDULED LANDS

PART I

THE SCHOOL PLAYGROUND SITE

A piece of land in the city of Bristol containing 2,450 square feet or thereabouts abutting on and bounded on the south by Rackhay on or towards the west by property formerly used as Saint Nicholas Sunday School on or towards the north by war-damaged property formerly comprising the Saint Nicholas Church School and on or towards the east by the western boundary of property fronting on Queen Charlotte Street.

PART II

THE CHAPEL SITE

A piece of land abutting on Crow Lane in the city of Bristol containing 3,850 square feet or thereabouts being the site of Saint John's Chapel and bounded by a line commencing at the junction of Crow Lane and Welsh Back thence proceeding in a southerly direction for a distance of 18 feet along the western boundary of Welsh Back thence in a westerly direction for a distance of 45 feet along the northern boundary of premises fronting Welsh Back and thence in a southerly direction for a distance of 20 feet along the western boundary of the same premises to and in a westerly direction for a distance of 80 feet along the northern boundary of premises belonging or reputed to belong to the Bristol Waterworks Company thence in a northerly direction for a distance of 38 feet along the eastern boundary of premises fronting on Queen Charlotte Street to the southern boundary of Crow Lane and thence in an easterly direction for a distance of 125 feet along the last-mentioned boundary to the point of commencement.

PRINTED BY THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., FOR
SIR JOHN ROUGHTON SIMPSON, 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 9d. net

PRINTED IN ENGLAND