CHAPTER clxxxviii.

An Act for transferring to the Ecclesiastical Commissioners certain endowments of the rectory of Saint Mary Radcliffe in the county palatine of Lancaster and for providing for the re-endowment of the said rectory and for the transfer of the advowson to the see of Manchester and for the application of the income and capital of the transferred endowments and for other ecclesiastical purposes. A.D. 1911.

[16th December 1911.]

WHEREAS the endowments of the rectory of Saint Mary Radcliffe in the county palatine of Lancaster and diocese of Manchester include a house of residence and grounds appurtenant thereto and tithe rentcharges and other glebe lands:

And whereas wholly or partly out of the ancient parish of Saint Mary Radcliffe aforesaid three ecclesiastical districts have been formed under the Church Building Acts and other statutory powers and the names of such ecclesiastical districts and the present incumbents thereof are set forth in the First Schedule hereto and the endowments of one of those districts have been provided for or otherwise augmented out of the endowments of the said rectory of Saint Mary Radcliffe:

And whereas the population of which the rector of Saint Mary Radcliffe still has the cure of souls exceeds six thousand and is rapidly increasing:

And whereas the Reverend Canon Stanley Swinburne is the rector (hereinafter referred to as "the present rector") and the advowson or perpetual right of patronage of and presentation to the said rectory of Saint Mary Radcliffe for an estate in fee simple forms part of the settled estates of the Right Honourable Arthur George Earl of Wilton (hereinafter referred to as "Lord

A.D. 1911.

Wilton") and Lord Wilton as tenant for life or a person by virtue of the Settled Land Acts having the powers of a tenant for life is entitled to exercise the power of sale conferred by the settlements of the said settled estates and the said Acts:

And whereas the Lord Bishop of Manchester (hereinafter referred to as "the bishop") has enterred into a contract for the purchase of the advowson of the said rectory such contract being made conditional on the confirmation thereof by this Act and a copy of the said contract is set forth in the Second Schedule to this Act:

And whereas it is desirable that the said contract for purchase should be confirmed and that the advowson or perpetual right of patronage of and presentation to the said rectory should be transferred subject to and in accordance with the provisions of this Act:

And whereas it is expedient that the Ecclesiastical Commissioners be empowered to advance out of their common fund the sum required for the purchase of the said advowson:

And whereas with the view of promoting the spiritual interests of the inhabitants the present rector as such rector is willing and it is expedient that the glebe lands tithe rentcharges and other property and endowments of the rectory (excepting the residence house and grounds appurtenant thereto and ecclesiastical patronage) be transferred to and vested in the Ecclesiastical Commissioners as from the next avoidance of the said rectory upon such trusts and with such powers as are conferred by this Act for re-endowment of the said rectory and for the application of the income and capital of the transferred property and endowments:

And whereas the present rector as such rector Lord Wilton as patron of the said rectory the bishop as bishop of the diocese wherein the said parish and rectory of Saint Mary Radcliffe is situate and the Ecclesiastical Commissioners have consented to this Act:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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 :— A.D. 1911.

Short title.

1. This Act may be cited as the Saint Mary Radcliffe Rectory Act 1911.

Confirmation of contract for sale of advowson.

2. The contract for sale of the advowson of the rectory of Saint Mary Radcliffe to the bishop a copy whereof is set forth in the Second Schedule to this Act is hereby confirmed and made binding on the parties thereto and shall be carried into effect by them subject to the modifications therein made by this Act and otherwise subject to and in accordance with the provisions of this Act.

Conditions as to conveyance of advowson.

3. The price to be paid for the said advowson shall be five thousand and thirty-four pounds and the fee simple of the advowson when purchased shall be conveyed upon condition that the right of nomination or presentation to the said rectory shall for ever thereafter belong to and be exerciseable by a body of trustees consisting of the bishop of the diocese wherein the parish of Saint Mary Radcliffe shall for the time being be situate the archdeacon of the archdeaconry wherein the said parish shall for the time being be situate the chairman of the Lancashire County Council the chairman of the urban district council of Radcliffe and that one of the churchwardens of the parish of Saint Mary Radcliffe who shall have been elected senior churchwarden by the parishioners in vestry assembled (hereinafter referred to as "the trustees") or by the major part in number of the trustees Provided always that in the case of every lay trustee he shall before joining in the exercise of the right of nomination or presentation make a declaration in writing that he is a member of the Church of England as by law established and that any lay trustee not being a member of the said Church may appoint a nominee to act in his place on any such occasion such nominee being a lay member of the Church of England and making the declaration aforesaid and provided further that after such conveyance and assurance the said advowson or right of nomination or presentation shall never be sold.

Conveyance to bishop to be deposited in bishop's registry.

4. The conveyance to the bishop under this Act shall be deposited in the registry of the bishop and a memorandum of such deposit shall be entered in the bishop's register and when a memorandum has been so entered and the conveyance has been registered in the manner prescribed by the Benefices Act 61 & 62 Vict. c. 48.

A.D. 1911.

51 & 52 Vict. c. 42.

1898 the conveyance shall be valid without enrolment under the Mortmain and Charitable Uses Act 1888 and without any further registration or other formality in reference thereto A copy of the conveyance certified under the hand of the registrar of the diocese shall for all purposes be evidence of the completion of the purchase.

Transfer to Ecclesiastical Commissioners of endowments of rectory.

5.—(1) On and from the date of the avoidance of the said rectory by the present rector or the date of the said conveyance of the said advowson whichever date shall be the later all the glebe lands and all tithe rentcharges rents hereditaments investments funds securities and other property of every description being or forming part of the endowment of the said rectory of Saint Mary Radcliffe (excepting only the house of residence of the rector of the said rectory and the grounds appurtenant to such residence house and all rights of ecclesiastical patronage belonging to the said rectory) shall by virtue of this Act without conveyance or other assurance be transferred to and vested in the Ecclesiastical Commissioners discharged from all estates rights interests and claims of any rector of the said rectory but subject to the repair of the chancel of the parish church of Saint Mary Radcliffe and to all other charges on or affecting the said lands or other property and on trust to give effect to the purposes of this Act.

(2) Nothing in this section contained shall affect the liability of the present rector or his successors rectors of the said rectory for first fruits and tenths payable to Queen Anne's Bounty in respect of the said rectory but the full amount of such first fruits and tenths shall continue payable by him and them as heretofore.

Ecclesiastical Commissioners to have powers of absolute owners.

6. On and from the date of the vesting in the Ecclesiastical Commissioners in accordance with the provisions of the fifth section of this Act of the endowments of the said rectory of Saint Mary Radcliffe and subject to the provisions of this Act the Ecclesiastical Commissioners shall have and exercise over the lands tithe rentcharges rents hereditaments investments funds securities and other property of every description vested or to be at any time vested in them for the purposes of this Act all the same and the like rights and powers of ownership as are possessed and enjoyed over and respecting any lands tithe rentcharges rents hereditaments investments funds securities and other

property by any absolute owner thereof and in particular (but without prejudice to the generality of the foregoing enactment) they may give sites for or for the enlargement of churches and churchyards or residence houses and grounds appurtenant thereto for the ministers or incumbents of any churches or districts now or hereafter existing within or partly within the ancient parish of Saint Mary Radcliffe or for schools or any other ecclesiastical or charitable purpose and may give land for the formation or improvement of roads or other public improvements.

Application of income of transferred endowments.

7. The rents and profits of any lands and hereditaments and all other income coming to the hands of the Ecclesiastical Commissioners under this Act shall be carried by them to an account in their books to be called "The Saint Mary Radcliffe Rectory (Income) Account" and the same or such part thereof as shall be required shall be applied by them as follows and in the following order (that is to say):—

(1) In payment after the date of the avoidance of the said rectory by the present rector or the date of the said conveyance of the said advowson whichever date shall be the later to the rector for the time being of Saint Mary Radcliffe of the annual sum of one thousand pounds such annual sum to be paid by equal quarterly payments on the twenty-fifth day of March the twenty-fourth day of June the twenty-ninth day of September and the twenty-fifth day of December in each year and such first and any subsequent payment are so far as necessary to be apportioned:

And so much of the said income as shall not be required for the purposes aforesaid shall be applied by the Ecclesiastical Commissioners in such order as may be determined by them as follows (that is to say):—

(2) In the construction of roads and sewers and the execution of such other works as the Ecclesiastical Commissioners may deem necessary for the improvement or development of the lands transferred to them under this Act:

(3) In repayment to the Ecclesiastical Commissioners of any sums advanced by them for any of the purposes of this Act or for the discharge of the costs and expenses of obtaining this Act together with interest

A.D. 1911.

at the rate of three pounds ten shillings per centum per annum:

(4) In making such provision or as the case may be such additional provision as the Ecclesiastical Commissioners with the approval of the bishop may think fit for the cure of souls in the said ancient parish of Saint Mary Radcliffe or in any districts or new parishes which may have been or may hereafter be formed wholly or partly out of the said ancient parish by means of grants of capital sums or of annuities whether perpetual or terminable for or towards the maintenance of or the endowment or augmentation of the incomes of the ministers or incumbents of such districts or new parishes or any of them or for or towards the provision or improvement of residence houses for any such ministers or incumbents or for or towards the stipends of assistant curates for such districts or parishes.

Power to apply specific endowments.

8. For any of the purposes aforesaid the Ecclesiastical Commissioners may if they think fit instead of making any grant of a capital sum or annuity grant any specific portion of the lands tithe rentcharges or other property vested in them under the provisions of this Act.

Application of capital.

9. An account shall be opened in the books of the Ecclesiastical Commissioners to be called "The Saint Mary Radcliffe Rectory (Capital) Account" and the surplus of income in any year after the foregoing payments and provisions shall have been made shall be carried to that account and shall together with any other moneys from time to time carried to that account be invested by the Ecclesiastical Commissioners in the same manner as they are empowered to invest moneys of which the income is carried to their common fund and shall be accumulated at compound interest with power for the Ecclesiastical Commissioners from time to time to vary and transpose or to sell and realise any such investments and in their discretion to apply the proceeds of sale or of realisation as well as the interest or income of any such investments for any of the purposes numbered (2) to (4) inclusive in the seventh section of this Act.

Form of grant to incumbent of district.

10. The grant of any capital sum or annuity perpetual or terminable or of any lands tithe rentcharges or other property under this Act may be made by the Ecclesiastical Commissioners

by an instrument under their common seal which shall be published in the London Gazette but every annuity so granted shall in case of deficiency of income applicable to the purpose be subject to abatement at the discretion of the Ecclesiastical Commissioners.

Application of proceeds of sale of endowments.

11. The money received by the Ecclesiastical Commissioners on any sale of any portion of the lands tithe rentcharges or other property vested or to be vested in them by or in pursuance of this Act shall be carried by the Ecclesiastical Commissioners to the said Saint Mary Radcliffe Rectory (Capital) Account and be dealt with and be applicable as the other moneys carried thereto.

Powers for Ecclesiastical Commissioners to make advances.

12.—(1) For the purpose of providing the purchase money for the said advowson (including the costs of the bishop and the Ecclesiastical Commissioners and stamp duty) and of paying the whole or any part of the costs charges and expenses of obtaining this Act or of any expenses incurred by them in carrying the same into execution or of making any payment for any of the purposes mentioned in the seventh section of this Act the Ecclesiastical Commissioners may advance out of their common fund such sums as they may see fit.

(2) All sums so advanced by the Ecclesiastical Commissioners with interest thereon from the date of each advance calculated at the rate of three pounds ten shillings per centum per annum may be repaid to and retained by the Ecclesiastical Commissioners at their discretion out of the Saint Mary Radcliffe Rectory (Capital) Account or out of the Saint Mary Radcliffe Rectory (Income) Account or partly out of the one and partly out of the other.

Costs of Act.

13. All costs charges and expenses of and incidental to preparing and obtaining this Act shall be paid in the first instance by the Ecclesiastical Commissioners out of their common fund but shall be repaid in manner hereinbefore provided.

Act to cease if advowson not conveyed within twelve months.

14. If from any cause whatever the advowson of the said rectory be not within twelve months after the passing of this Act conveyed to the bishop then all the provisions of this Act shall after the expiration of the said twelve months cease to have any effect and this Act shall be repealed.

A.D. 1911.

The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

DISTRICTS FORMED WHOLLY OR PARTLY OUT OF THE ANCIENT PARISH OF SAINT MARY RADCLIFFE.

District.	Name of present Incumbent.
Bury Saint Peter - - - - - -	Rev. C. J. Woodhouse.
Radcliffe Black Lane Saint Andrew - -	Rev. H. Williamson.
Radcliffe Saint Thomas - - - -	Rev. H. Marks.

THE SECOND SCHEDULE.

AN AGREEMENT made the third day of December one thousand nine hundred and ten between the Right Honourable ARTHUR GEORGE EARL OF WILTON (hereinafter called "Lord Wilton") of the one part and the Right Reverend Father in God EDMUND ARBUTHNOTT by Divine permission Lord Bishop of Manchester (hereinafter called "the bishop") of the other part.

WHEREAS the fee simple and inheritance of the advowson of or perpetual right of presentation to the rectory of Saint Mary Radcliffe in the county palatine of Lancaster and diocese of Manchester (hereinafter called "the said advowson of the said rectory") forms part of the settled land within the meaning of the Settled Land Acts 1882 to 1890 comprised in a settlement dated the 4th day of August 1886 and made between the late Earl of Wilton of the first part Lord Wilton (then Viscount Grey de Wilton) of the second part George William Earl of Coventry and Sir James Fergusson of the third part and Dudley Charles Baron de Ros of the fourth part and in a compound settlement created by that settlement and other instruments of prior and subsequent date thereto under which compound settlement trustees for the purposes of the said Settled Land Acts 1882 to 1890 were appointed by an order of the Chancery Division of the High Court of Justice dated the

19th day of June 1899 and Lord Wilton as tenant for life or a person by virtue of the said Settled Land Acts having the powers of a tenant for life is the person to exercise the power of sale conferred by the joint operation of such settlement and compound settlement and the said Acts:

And whereas a Bill is about to be introduced in the next ensuing session of Parliament for an Act to be entitled "The Saint Mary Radcliffe Rectory Act 1911" for the purpose among other things of enabling the purchase by the bishop of the said advowson of the said rectory and the payment of the purchase money out of moneys to be advanced by the Ecclesiastical Commissioners out of their common fund to the intent that the said advowson of the said rectory may for ever thereafter be annexed to the see of Manchester:

And whereas Lord Wilton as such tenant for life as aforesaid is willing to sell to the bishop the said advowson of the said rectory free from incumbrances at the price of five thousand three hundred pounds and in order to facilitate the passing of the said Bill into an Act he has agreed to enter into such conditional agreement as is hereinafter contained:

Now these presents witness that Lord Wilton so far as relates to the acts on his part to be performed hereby for himself and his sequels in title agrees with the bishop and the bishop so far as relates to the acts on his part and the part of his successors to be performed hereby agrees for himself and his successors with Lord Wilton as follows (that is to say):—

1. Lord Wilton as such tenant for life as aforesaid shall sell and the bishop or his successor bishop of Manchester for the time being shall purchase all that the said advowson of the said rectory and the fee simple thereof free from all incumbrances at the price of five thousand three hundred pounds.

2. The said purchase money of five thousand three hundred pounds shall be paid on the expiration of one calendar month after the said Bill shall have received the Royal Assent (such date being hereinafter referred to as "the said date of completion").

3. Lord Wilton shall within seven days next after the said Bill shall be introduced into Parliament deliver an abstract of his title to the said advowson of the said rectory to Messrs. Milles Jennings White and Foster of 5 Little College Street in the city of Westminster the solicitors for the bishop in relation to the said Bill which abstract of title shall commence with the said indenture of settlement dated the 4th day of August 1886 and at the expense of the bishop such other documents (if any) dated prior thereto as form part of the above-mentioned compound settlement The said solicitors to the bishop

A.D. 1911.

shall thereupon submit such abstract to Mr. Arthur Underhill or some other conveyancing counsel of the Chancery Division of the High Court of Justice for his opinion whether Lord Wilton as such tenant for life as aforesaid has a good marketable title to the said advowson of the said rectory All requisitions on title which may be made shall be answered or replied to within seven days after the delivery thereof to Messrs. Grover Humphreys and Son of 4 King's Bench Walk Temple London the solicitors acting for Lord Wilton.

4. In case the said Bill shall not be passed into law during the next ensuing session of Parliament or in case the said Arthur Underhill or such other conveyancing counsel to whom the said abstract of title shall be submitted as aforesaid shall be of opinion that a good marketable title has not been shown and cannot be made by Lord Wilton by the said date of completion to sell the fee simple of the said advowson of the said rectory free from incumbrances and that a proper conveyance thereof to the bishop and his successors cannot be executed by Lord Wilton or by his direction by that date then and in any of the said cases these presents and the contract hereby made shall be and become void and neither Lord Wilton nor the bishop shall make any claim against the other of them for any costs charges or expenses or on any account whatever.

5. In case of a vacancy occurring in the said rectory while this contract remains in force but before the execution of the conveyance to the bishop and his successors pursuant thereto Lord Wilton or his sequels in title will not present and the bishop will not in case of lapse collate a clerk thereto until it has been found as aforesaid that a good title has been made to the said advowson of the said rectory free from incumbrances And in case it is so found as aforesaid that a good title has been made thereto Lord Wilton or his sequels in title will on receipt of the purchase money present to the said rectory or allow the bishop or his successors to collate thereto such person as the bishop or his successor shall nominate And in case it is found as aforesaid that a good title cannot be made to the said advowson of the said rectory and at the time when such opinion is obtained the right of presentation should have lapsed or be within one calendar month of lapsing to the bishop or his successor the bishop or his successor will nevertheless not exercise his right by lapse for a period of three calendar months thereafter but will during such period allow to be presented or will collate thereto such proper person as Lord Wilton or his sequels in title may nominate.

6. The conveyance of the said advowson of the said rectory to be executed pursuant to these presents shall (subject to approval in the usual way by the solicitors or counsel of Lord Wilton) be in such form as shall be required by Mr. Arthur Underhill or by such other

conveyancing counsel of the Chancery Division who shall be named by the solicitors acting for the bishop or his successors.

7. The bishop and his successors will use his and their best endeavours to obtain the passing of the before-mentioned Bill into an Act during the next ensuing session of Parliament.

8. Lord Wilton and his sequels in title will use his and their best endeavours to obtain the passing of the before-mentioned Bill into an Act during the next ensuing session of Parliament and the said Bill having passed into law Lord Wilton or his sequels in title on the said date of completion and on the payment of the said purchase money to the trustees of the said compound settlement will with all other necessary and proper parties execute the conveyance of the said advowson of the said rectory hereinbefore mentioned.

9. Lord Wilton is selling the said advowson of the said rectory as such tenant for life as aforesaid and his covenants for title and further assurance whether expressed or implied shall as regards the reversion or remainder expectant on his life estate be qualified so as to extend only to the acts of himself and persons claiming under him.

In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first before written.

Signed sealed and delivered by the Right Honourable Arthur George Earl of Wilton in the presence of } WILTON. L.S.

E. HUMPHREYS Solicitor
Temple E.C.

Signed sealed and delivered by the Right Reverend Edmund Arbuthnott Lord Bishop of Manchester in the presence of } E. A. MANCHESTER. L.S.

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