CHAPTER x.

An Act to authorise the sale of the existing Church of Saint Philip in the City of Liverpool and of the site thereof and purchase of a site for and the erection of a new church and to provide for the appointment of Trustees and other relative matters. [19th May 1882.] A.D. 1882.

WHEREAS by an Act passed in the first year of the reign of King George the Fourth intituled "An Act for regulating "and supporting a new church or chapel within the town of Liver- "pool in the county palatine of Lancaster and for the solemnisation "of marriages therein" (in this Act referred to as "the Act of 1820") after reciting among other things to the effect that John Cragg Esquire had lately erected on a piece of land situate on the north side of Hardman Street in Liverpool a church or chapel and that the same had been lately consecrated it was among other things enacted to the effect following (that is to say): 1 Geo. IV. c. ii.

That the said piece of land should (as soon as a conveyance of the same to certain persons therein named had been executed and enrolled as therein mentioned) be vested in those persons and their successors to be appointed as therein mentioned by the name or style of "the Trustees of the church or chapel of Saint Philip Liverpool" and that such church should be called "the church of Saint Philip"; Section 1.

That the seats and pews in the said church and the vaults in the said churchyard or cemetery (with the exception of certain seats and vaults therein mentioned) should be vested in the said Trustees to be conveyed to the purchasers thereof as personal property; Sections 4 to 6.

That the said church and the walls of the churchyard or cemetery and the organ in the said church should be kept in repair by the owners for the time being of the said seats or pews and that a rate might be made on such owners for such repairs in case the surplus of the pew rents thereby authorised should not be sufficient for the purpose; Sections 7 to 9.

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Section 11. That there should be a minister and a chaplain of the said church and that after the expiration of forty years from its consecration the appointment of the said minister and chaplain should be vested in the corporation of Liverpool;

Section 13. That the said minister and chaplain and the clerk sexton and organist to be appointed as in the said Act mentioned should receive out of the pew rents thereby authorised the salaries therein mentioned;

Section 19. That two churchwardens should be annually appointed by the major part of the owners of pews or seats in the said church;

And whereas the conveyance of the said piece of ground and premises was duly executed and enrolled in the Consistory Court of Chester:

And whereas the said church was consecrated on the twenty-ninth day of October one thousand eight hundred and sixteen:

And whereas by an Act passed in the session held in the twentieth and twenty-first years of the reign of Her Majesty intituled "An Act for uniting the offices of minister and chaplain of "Saint Philip's Church in Liverpool" the offices of minister and chaplain of the said church were united into one office and it was enacted that the corporation of Liverpool should sell the advowson of or right of nomination or presentation to the said church:

20 & 21 Vict. c. xxxvi.

And whereas the said advowson or right of presentation was sold by the corporation pursuant to the said Act and is now vested in the present incumbent the Reverend Thomas Knox Magee Morrow clerk in holy orders subject to a mortgage in favour of George Mackrell and George Hindes Smith to secure the sum of one thousand five hundred pounds and interest at the rate of four pounds per centum per annum:

And whereas all the Trustees appointed by the Act of 1820 are dead and no person or persons has or have ever been appointed in any of their places:

And whereas John Dyas and Thomas Max Dreaper are the present churchwardens duly appointed under the Act of 1820 and Thomas Johnson is the present clerk and sexton:

And whereas there is not any ecclesiastical district assigned to the church or any endowment and owing to the conversion of numerous dwelling-houses in the neighbourhood into shops and the erection and enlargement of other churches in the neighbourhood the attendance at the services of the church is now very small and but few of the pews or seats are let:

And whereas there have been but two interments in the churchyard since the year 1863:

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And whereas the fabric of the church has for some time been in want of substantial repair and the graves and tombstones are dilapidated and there is no prospect of obtaining the necessary funds for the due maintenance of the church and its services and of the churchyard and for payment of the minister clerk and sexton and organist:

And whereas in these circumstances the patron and incumbent and churchwardens of the church are desirous and it is expedient that the existing church and its site be sold and that the existing owners of seats or pews be freed from all liability in respect of the repair or maintenance thereof and that a new church be erected on a site to be acquired for the purpose and that provision be made for vesting the right of presentation to the new church in Trustees to be appointed as in this Act mentioned and for discharge of the moneys owing on the said mortgage security out of the purchase moneys of the existing church:

And whereas the Lord Bishop of Liverpool within whose diocese the church is situate approves the scheme authorised by this Act and George Mackrell and George Hindes Smith as such mortgagees and Thomas Johnson as such clerk and sexton assent to it:

And whereas the objects aforesaid 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 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 (that is to say):

Short title.

1. This Act may be cited as the Saint Philip's Church (Liverpool) Act 1882.

Trustees for execution of Act.

2. (1) The following persons that is to say the Right Reverend John Charles Ryle Doctor of Divinity the present Lord Bishop of Liverpool the said Reverend Thomas Knox Magee Morrow Edward Whitley Charles Groves and Albert Tomlinson Wright and any person appointed as herein-after mentioned shall be Trustees for the execution of this Act and are herein-after referred to as the Trustees and may by any three or more of their number exercise all the powers by this Act given to the Trustees:

(2) The Trustees may from time to time appoint an additional Trustee or Trustees and if at any time their number is reduced by death resignation or otherwise below five the continuing Trustees shall as soon as may be appoint so many other persons to be Trustees

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as will raise the number of the Trustees to five but the Trustees may at all times act notwithstanding the existence of any vacancy or vacancies in their number unless reduced below three in which case they shall not exercise any of the powers of this Act except that of appointing new Trustees :

(3) Every Trustee shall be a member of the Church of England and upon his ceasing to be such shall thereupon cease to be a Trustee.

(4) The duties and acts of the present Bishop of Liverpool and of any future Bishop of Liverpool who may act as a Trustee shall be separate and distinct from the duties and acts of the bishop as defined by this Act.

Chairman and proceedings of Trustees.

3. (1) The Trustees shall appoint one of their number to be chairman and (if they see fit) one of their number to be vice-chairman and they shall also appoint one of their number or any other person (being a member of the Church of England) to be their honorary secretary ;

(2) The Trustees shall meet at least once in every month but may suspend their meetings for a period not exceeding two consecutive months in every year ;

(3) If at any meeting neither the chairman nor vice-chairman (if any) is present within fifteen minutes of the time fixed for the meeting the Trustees present may call any one of their number to the chair for that meeting ;

(4) All questions at a meeting shall be decided by the majority of those present and voting and the chairman of the meeting shall have in case of equality of votes a second or casting vote ;

(5) The honorary secretary shall give notice to all the Trustees of meetings and of the business to be transacted thereat and shall keep minutes of the proceedings and perform such other duties as are entrusted to him by the Trustees ;

(6) Subject as aforesaid the Trustees may meet adjourn and regulate their proceedings as they think proper.

Interpretation.

4. In this Act the following expressions have (unless the context otherwise requires) the meanings hereby respectively assigned to them that is to say :—

"The old church" means the existing church of Saint Philip in the city of Liverpool ;

"The new church" means the church to be built under this Act ;

"The bishop" means the Lord Bishop of Liverpool for the time being ;

"The General Acts" means the Church Buildings Acts and the New Parishes Acts 1843 1844 and 1856 and any Act amending the same. 6 & 7 Vict. c. 37. 7 & 8 Vict. c. 94. 19 & 20 Vict. c. 104.

Power of sale of old church.

5. On the passing of this Act the old church and the site materials fittings and furniture thereof and the churchyard and other land (if any) conveyed to or otherwise vested in the Trustees appointed under the Act of 1820 pursuant to that Act shall be by virtue of this Act subject to an absolute power of sale to be exercised by the Trustees under and subject to the provisions of this Act.

Trustees to sell old church and site.

6. (1) As soon as conveniently may be after the passing of this Act the Trustees shall sell the old church and the site thereof and the churchyard and other such land (if any) as aforesaid either together or in lots and either by public auction or private contract and generally at such time or times and on such terms and conditions as the Trustees shall think fit freed and discharged from all ecclesiastical and other trusts uses purposes obligations and disabilities whatsoever and from all rights or interests of the owners of any seats or pews therein and may execute and do all assurances acts and things necessary or proper for affecting the purposes aforesaid:

(2) Every assurance of land sold under this section which is executed by the Trustees shall be registered in the Public Episcopal Registry of the diocese of Liverpool and shall vest such land in the purchaser thereof freed and discharged as aforesaid without the concurrence or consent of any other person:

(3) The owners of seats and pews in the old church are hereby discharged from all liability in respect of the repair of the old church or otherwise under the Act of 1820.

Removal of stained glass &c. of old church for safe custody

7. Before the old church is sold the Trustees shall cause the stained-glass windows church plate and such other ornaments fittings and furniture (if any) as they think fit together with all registers deeds records books and documents belonging to or kept in the old church to be removed to such place of safe custody as they may determine there to be kept until the new church is ready for reception of the same respectively whereupon the same shall be removed to the new church and erected and placed therein.

Human remains to be removed.

8. (1) The Trustees shall cause the remains of any person interred or deposited in or under the old church or the churchyard thereof to be removed and interred in any consecrated burial-ground wherein burials may legally take place and shall cause any monuments tablets and tombstones in the old church or churchyard

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to be removed to and fixed or re-erected in the new church or new place of interment;

(2) Every such removal of remains monuments or tombstones may be made without any faculty from the bishop's court;

(3) The heirs executors administrators relations or friends of any person whose remains are interred or deposited in or under the old church or the churchyard thereof may if they so prefer at the cost of the Trustees (such cost not to exceed ten pounds in any case) remove the remains of such person to any consecrated burial-ground wherein burials may legally take place and with the consent of the bishop the monument tablet or tombstone erected to the memory of such person to any place they may think fit.

Receipt of Trustees.

9. Every receipt signed by the Trustees shall effectually discharge the purchaser of any land under the powers of this Act from the amount of money expressed in such receipt to have been received and from being bound to see to the application or from being answerable for the loss misapplication or non-application thereof.

Acquisition of site for new church.

10. As soon as conveniently may be after the passing of this Act the Trustees shall with the approval of the bishop purchase lands in the city of Liverpool or the suburbs thereof adapted for the site of the new church and shall appropriate and lay out the same as and for the site of the new church and of approaches thereto and for no other purpose and may make execute and do all contracts assurances deeds acts and things necessary or proper for the above purposes and in particular may and shall prior to the consecration of the new church convey to and vest in the Ecclesiastical Commissioners for England the same site and approaches in manner contemplated by the General Acts or some or one of them to the satisfaction of the said commissioners.

Erection of new church.

11. When the Trustees have acquired a site for the new church they shall so soon as circumstances admit erect thereon a church whereof the plans and specification shall have been first approved by the bishop and the said Ecclesiastical Commissioners with all proper approaches fittings ornaments and conveniences and shall take the proper steps to obtain the consecration of the same.

Constitution and assignment of district to new church.

12. (1) A separate district for ecclesiastical purposes may with the consent of the bishop be constituted or assigned to the new church under the provisions of the General Acts or any or either of them and this Act but no consent or notice under the General Acts shall be requisite for the purposes of this Act:

(2) So soon as a district has been constituted and assigned to the new church as aforesaid the district shall be deemed a new parish for ecclesiastical purposes created under the New Parishes Acts and the provisions of those Acts so far as they are not varied by or inconsistent with this Act shall extend and apply to such parish.

First incumbent of new church and first clerk and sexton.

13. The person who at the time of the sale of the site of the old church by the Trustees is the minister thereof shall if he be living at the time of the consecration of the new church be without presentation admission institution or induction or other process whatsoever the first incumbent of the new church and the person who at the like time is the clerk and sexton of the old church shall if he be living at the time of the consecration of the new church be the first clerk and sexton of the same.

Right of presentation to incumbency.

14. On the occurrence of any vacancy in the office of incumbent of the new church the Trustees shall have the right of presentation to the vacant office and so from time to time but shall not have any power of sale of such right of presentation.

Power to receive and apply donations and subscriptions.

15. The Trustees may from time to time receive any donations or subscriptions in aid of the purposes of this Act or of forming a church fund or endowment for the new church and may from time to time invest the same in any securities in which Trustees are for the time being authorised by law to invest trust moneys and apply the same and the resulting income of any such investment in the execution of the purposes of this Act including the payment and satisfaction of all costs charges and expenses of the Trustees in the exercise of their office.

Application of purchase moneys of site and materials of old church.

16. All moneys received by the Trustees for the sale of any lands materials or other property under this Act shall be applied as follows :

(1) In payment of the costs charges and expenses of and incident to the preparing applying for and obtaining this Act and of the expenses of removal and re-interment of human remains and of the removal and custody of any monuments fittings furniture registers or other documents of the old church ;

(2) In the discharge of the moneys due on security of the said mortgage to the said George Mackrell and George Hindes Smith ;

(3) In the purchase and laying out of lands as and for a site for the new church and approaches and all costs and expenses connected therewith :

(4) In or towards the erection and completion of the new church with all proper approaches fittings ornaments and conveniences

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and in the endowment conveyance to the Ecclesiastical Commissioners and consecration thereof and in payment of all costs and expenses connected therewith:

And the balance of moneys from time to time remaining in their hands shall be invested by the Trustees in securities in which Trustees are for the time being authorised by law to invest trust moneys and the resulting income shall subject to the payment of the costs charges and expenses of the Trustees be paid by them half yearly to the incumbent for the time being of the new church who shall thereout pay the salary of any clerk or sexton for the time being:

Provided that until the new church has been erected and consecrated any income resulting from time to time on any moneys which have been received and invested by the Trustees and have not been expended in the execution of any of the purposes of this Act shall be paid to the incumbent or minister who was incumbent or minister of the old church at the time of the sale of the site thereof who shall satisfy thereout the claims of the present clerk or sexton and on any avoidance of the incumbency or office of minister such income shall subject to the Trustees satisfying thereout the claims of the present clerk or sexton until the appointment of the next incumbent from time to time be accumulated by the Trustees and invested as aforesaid and notwithstanding the sale of the old church the avoidance of such incumbency or office of minister as aforesaid shall take effect in like manner as if the old church had remained the church of the incumbent or minister thereof at the time of its sale notwithstanding this Act or any provision therein contained.

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