



## CHAPTER cxxiv.

An Act to provide for the collection and appropriation of the Falmouth Rector's Rate and the eventual suspension or abolition of the same and for annexing to the See of Truro the advowson of the Rectory of Falmouth and for other purposes. A.D. 1896.

[20th July 1896.]

**W**HEREAS by the Act 16 Charles II. chapter 18 intituled "An Act for the making of the church erected at Falmouth a parish church and noe part of the parish of Gluvias or Chappelry of Saint Budocke" it was (amongst other things) enacted that the town of Falmouth should for ever thereafter be severed and divided from the parish of Gluvias and chappelry of Saint Budocke and from all dependence thereupon and that the church then lately erected in the town of Falmouth should be for ever thereafter a parish church for all the inhabitants within the said town and that one fit and sufficient person should be collated and admitted to the said church of Falmouth by the Lord Bishop of Exeter for the time being and inducted thereunto and that the same person should be parson or rector of the said parish church of Falmouth and that he and his successors should be incorporated and have perpetual succession in the same and be called parsons or rectors of the parish church of Falmouth :

And whereas by the said Act it was further enacted that the mayor and aldermen of Falmouth for the time being or any three of them should thereby be empowered from time to time equally to rate and assess all and every the houses shops warehouses cellars and outhouses with the appurtenances then being or which thereafter at any time should be built in the town and precincts of Falmouth according to the true yearly rent or value of the said houses shops warehouses cellars and outhouses with the appurtenances after the rate of sixteen pence in the pound to be paid by the several and respective owners of the said houses shops warehouses cellars and outhouses with the appurtenances at the

A.D. 1896. — four most usual feasts of the year by even and equal portions unto the parson of Falmouth and his successors for ever :

And whereas by the Act 22 and 23 Charles II. chapter 20 intituled "An Act for the better explanation of an Act made in this present Parliament intituled an Act for the making of the church erected at Falmouth a parish church and no part of the parish of Gluvias or chappelry of Saint Budocke" the said firstly recited Act was amended and the right of patronage donation and presentation to the said parish church of Falmouth was conferred on Sir Peter Killigrew and his heirs :

And whereas the advowson and perpetual right of presentation to the said parish church of Falmouth now belongs to Richard Copeland Denton of Norton House Stockton-on-Tees in the county of Durham :

And whereas disputes and ill-feeling have from time to time arisen and been caused in and by reason of the assessing and collecting of the said rate authorised by the said recited Acts and with a view to the prevention of such disputes and ill-feeling and to the eventual abolition of the said rate Frederick John Horniman of Surrey Mount Forest Hill in the county of Surrey has entered into an agreement with the said Richard Copeland Denton for the purchase of the said advowson for the price of six thousand pounds the same to be conveyed to the Lord Bishop of Truro and his successors in whose diocese the said rectory is situate such agreement being conditional on the passing of this Act and a copy of the said agreement is set forth in the Schedule to this Act :

And whereas the Reverend Brian Christopherson the present rector of Falmouth with a view of facilitating the carrying out of the objects of this Act has agreed to the said rate being in future collected and recovered by the mayor aldermen and burgesses of the borough of Falmouth (herein-after called "the Corporation") and to accept in lieu of the said rate a stipend of less amount than the present annual proceeds of the same and has consented to the other provisions of this Act :

And whereas it is desirable that the said agreement should be carried into effect and that the said advowson and perpetual right of presentation should be transferred to and for ever remain vested in the Lord Bishop of Truro as part of the possessions of his See and that the collection and recovery of the said rate should be transferred to the Corporation and that they should out of the proceeds of the said rate pay a stipend to the rector of the said parish church and make provision for the repayment to the said Frederick John Horniman of the said sum of six thousand pounds together with interest thereon at the rate of two pounds ten

shillings per centum per annum by thirty equal annual instalments of principal and interest and also make provision for the accumulation of a fund the yearly income of which will eventually be sufficient for the payment of the rector's stipend so as to allow of the said rate being reduced and eventually suspended or altogether abolished :

And whereas the Lord Bishop of Truro has consented to this Act :

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 :—

1. This Act may be cited as the Falmouth Rectory Act 1896. . . . Short title.

2. In this Act unless the context otherwise requires the following expressions shall have the following meanings respectively (that is to say) :— Interpretation.

“The bishop” means the Right Reverend John Lord Bishop of Truro and his successors for the time being Lord Bishops of Truro ;

“The rectory” means the rectory of the parish church of Falmouth ;

“The rector” means the Reverend Brian Christopherson and his successors for the time being rectors of the rectory ;

“The rector's rate” means the rate leviable under the recited Act of 16 Charles II. and payable to the rector ;

“The scheduled agreement” means the agreement a copy of which is set out in the Schedule to this Act ;

“The Corporation” means the mayor aldermen and burgesses of the borough of Falmouth ;

“The council” means the council of the borough of Falmouth.

3. This Act so far as it relates to anything to be done by the Corporation shall be carried into effect by the Corporation acting by the council. Corporation to act by the council.

4. On a good title being made to the advowson and perpetual right of presentation to the rectory as provided by the scheduled agreement the said Frederick John Horniman or his executors or administrators shall pay to the said Richard Copeland Denton his executors administrators or assigns the sum of six thousand pounds and the said advowson shall thereupon be conveyed so as to vest in the bishop in fee simple as part of the possessions of his see and Advowson to be conveyed to the bishop.

A.D. 1896. the right of nomination to the rectory shall for ever thereafter be exercised by the bishop.

Rector's  
rate to be  
paid to and  
collected  
by the  
Corporation.

5. On and from the twenty-fifth day of December one thousand eight hundred and ninety-six or if the advowson of the rectory shall not then have been conveyed to the bishop on and from the first quarter day after such conveyance the rector's rate (except any arrears thereof due before such date) shall be paid to and shall be collected and recovered by the Corporation and the recovery of the same may be enforced in the manner provided by section 256 of the Public Health Act 1875 as if the rector's rate were a rate made under that Act by an urban authority.

Application  
of rector's  
rate.

6. The Corporation shall carry to a separate account all moneys received by them from or in respect of the rector's rate and shall apply the same for the purposes and according to the priorities following (that is to say):—

Firstly in payment of the costs and expenses of and incidental to the collecting and recovering of the rector's rate;

Secondly in payment of the stipend of the rector as herein-after provided;

Thirdly in payment as herein-after provided of the annual instalments of principal and interest in respect of the sum of six thousand pounds the purchase money of the advowson;

Fourthly the residue in each year after making the payments herein-before provided for shall be invested from time to time and accumulated by way of compound interest by investing the same and the dividends interest and annual income thereof in any security in which trustees are for the time being authorised to invest trust moneys and upon any mortgage bond debenture debenture stock corporation stock annuity rent-charge rent or other security (not being in any case securities transferable by delivery) authorised by or under any Act of Parliament passed or to be passed of any municipal corporation in Great Britain (except the Corporation) or of any other local authority within section 34 of the Local Loans Act 1875 The fund so to be formed is herein-after in this Act referred to as "the accumulated fund":

Provided that the Corporation may at any time agree with the Ecclesiastical Commissioners to pay over to them the amount of the said accumulated fund together with all additions that may from time to time accrue thereto in consideration of the Ecclesiastical Commissioners undertaking to pay to the rector annually as part of his stipend such sum or sums or such interest on the amount of the accumulated fund for the time being paid over to them as may

be agreed upon between the Corporation and the Ecclesiastical Commissioners who shall thenceforth pay to the rector the sum or sums or interest so agreed upon and the stipend payable by the Corporation shall be reduced by such amount accordingly. A.D. 1896.

7. The Corporation shall out of the proceeds of the rector's rate pay to the Reverend Brian Christopherson the present rector as long as he shall continue such rector by way of stipend the annual sum of fourteen hundred pounds clear of all deductions except income tax and to every succeeding rector the annual sum of eleven hundred pounds clear of all deductions except income tax such stipends to be payable by equal quarterly payments on the usual quarter days the first of such quarterly payments to become due and payable on the first quarter day after the collection and recovery of the rector's rate shall have been transferred to the Corporation under the provisions of this Act. Stipend to rector.

8. In case the produce of the rector's rate shall at any time be insufficient for the payments firstly secondly and thirdly mentioned in the section of this Act of which the marginal note is "Application of rector's rate" the deficiency shall be made good from so much of the accumulated fund as represents interest or accumulations thereof but in no case shall the principal of such accumulated fund be applied to make good any such deficiency nor shall the Corporation be liable to make good any such deficiency out of the borough fund or otherwise than as provided by this Act. Provision in case rector's rate insufficient for payments.

9. If the rector's stipend be not paid on any of the quarterly days of payment the rector may without prejudice to any other mode of recovery apply to a court of summary jurisdiction for an order for payment of the same and such court may after hearing the parties make an order for the payment by the Corporation of so much of the said stipend as shall then be in arrear and the Corporation shall thereupon pay the same out of the proceeds of the rector's rate or if the same is not sufficient out of so much of the accumulated fund as represents interest or accumulations thereof and if they neglect to pay the same within seven days such order may be enforced in the manner provided by the Summary Jurisdiction Acts. Provisions as to recovery of stipend.

10. Subject to the provisions of this Act the Corporation shall out of the proceeds of the rector's rate repay to the said Frederick John Horniman his executors administrators or assigns the said sum of six thousand pounds together with interest at the rate of two pounds ten shillings per centum per annum within thirty years from the twenty-fifth day of December one thousand eight hundred and ninety-six or any later date on which the collection and Repayment of the purchase money of the advowson.

A.D. 1896. recovery of the rector's rate shall have been transferred to the Corporation under this Act by thirty equal annual instalments of principal and interest the first of such annual instalments to be payable on the twenty-fifth day of December one thousand eight hundred and ninety-seven. Provided always that the Corporation or the Ecclesiastical Commissioners may at any time on giving six months notice in writing to the said Frederick John Horniman or other the person for the time being entitled to receive payment of the said instalments pay off out of the accumulated fund the balance then remaining due of the said principal sum of six thousand pounds together with interest at the rate aforesaid up to the date of payment and if any difference shall arise as to the amount of principal or interest so to be paid the same shall be determined by an actuary or accountant to be agreed on between the parties in difference or failing such agreement to be nominated by the Ecclesiastical Commissioners.

Reduction of rector's rate in certain events.

11. At the end of each successive period of five years from the twenty-fifth day of December one thousand eight hundred and ninety-six or sooner if the Corporation shall so require the Corporation may so reduce the rector's rate that the proceeds thereof together with a sum out of the yearly income of the accumulated fund to be fixed by an actuary or accountant as herein-after provided will be sufficient to meet the payments firstly secondly and thirdly charged on the said rate under the section of this Act of which the marginal note is "Application of rector's rate" and the said payments shall be made out of the proceeds of the rector's rate as so reduced and such sum as aforesaid. Provided that no such reduction shall be made unless an actuary or accountant to be agreed on by the bishop the rector and the Corporation or failing such agreement to be nominated by the Ecclesiastical Commissioners at the request of any of the said parties shall report that notwithstanding such reduction and the appropriation of a sum to be fixed by such actuary out of the yearly income of the accumulated fund such yearly income will at the expiration of fifty years from the twenty-fifth day of December one thousand eight hundred and ninety-six or from any later date at which the collection and recovery of the rector's rate shall have been transferred to the Corporation under this Act be sufficient to provide for the payment of the said several payments so charged on the said rate as aforesaid.

Rector's rate may be suspended.

12. Whenever and so long as the yearly income from the accumulated fund is sufficient to pay the stipend of the rector and the instalments (if any) then payable in respect of the said sum of six thousand pounds and the sufficiency of such yearly income is certified by an actuary or accountant agreed on or nominated as

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aforesaid the making and collection of the rate may be suspended and the Corporation or the Ecclesiastical Commissioners as the case may be shall out of the yearly income of the accumulated fund pay the rector's stipend at the times provided by this Act and the said instalments (if any) Provided that if at any time after such suspension of the rector's rate the said yearly income shall be found by a certificate of an actuary or accountant agreed on or nominated as aforesaid to be insufficient for the purposes aforesaid the rector's rate shall again be made and shall be collected and recovered by the Corporation and applied as by this Act directed :

Provided that the rector's rate so to be again made may be of such reduced amount as shall be certified by such actuary or accountant to be together with the said yearly income sufficient for the purposes aforesaid and for securing that the said yearly income will at the expiration of fifty years from the date in the last preceding section mentioned be sufficient for the payment of the rector's stipend and any other payments then chargeable thereto under this Act.

**13.** (1) If at any time after the said sum of six thousand pounds shall have been paid off the yearly income of the accumulated fund shall be sufficient to pay the stipend of the rector and the same shall be certified by an actuary or accountant agreed on or nominated as aforesaid the Corporation may with the consent in writing of the bishop and of the Ecclesiastical Commissioners transfer and pay over the accumulated fund to the Ecclesiastical Commissioners who shall thenceforth pay to the rector the stipend payable under this Act at the times by this Act provided ; or

Rector's rate to cease in certain events.

(2) If at any time after the said sum of six thousand pounds shall have been paid off the amount annually payable by the Ecclesiastical Commissioners to the rector in pursuance of any agreement made between the said commissioners and the Corporation under the foregoing provisions of this Act shall be equal to the rector's stipend

then in either of such cases the rector's rate shall absolutely cease and determine but nothing herein contained shall prevent or prejudice the collection and recovery of any arrears of any such rate made before such cesser.

**14.** The reasonable costs and charges of any actuary or accountant employed under the provisions of this Act shall be paid by the Corporation or the Ecclesiastical Commissioners out of the accumulated fund.

Providing for costs of actuary or accountant.

**15.** Nothing in this Act contained shall prejudice or affect the right of the rector to receive and recover so much of any rector's rate as shall become due prior to the twenty-fifth day of December

Saving right to recover arrears of rate.

A.D. 1896. one thousand eight hundred and ninety-six or any later date on which the Corporation shall take over the collection and recovery of the rector's rate under the provisions of this Act and as shall be in arrear and unpaid at such date.

Saving right of rector to tithes and surplice fees.

16. Nothing in this Act shall be construed to deprive the rector of his right to tithes or payments in lieu of tithes or to the fees commonly called surplice fees or to any other fees or payments in the nature of fees or other emoluments (except the rector's rate) to which he was entitled immediately before the passing of this Act.

Mode of making and assessing rector's rate shall not be altered.

17. Nothing in this Act shall alter the mode of making or assessing the rector's rate nor shall the amount thereof be increased beyond the amount authorised to be levied by the recited Acts and the said rate shall be made and assessed in the same manner as before the passing of this Act.



The SCHEDULE referred to in the foregoing Act.

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AN AGREEMENT made the twenty-eighth day of April one thousand eight hundred and ninety-six between Richard Copeland Denton of Norton House Stockton-on-Tees in the county of Durham Esquire (herein-after called "the vendor") of the one part and Frederick John Horniman of Surrey Mount Forest Hill in the county of Surrey Esquire Member of Parliament for the Borough of Penryn and Falmouth in the county of Cornwall (herein-after called "the purchaser") of the other part.

WHEREAS a Bill is about to be introduced in the present session of Parliament intituled "A Bill to provide for the collection and appropriation of the " Falmouth Rector's Rate and the eventual suspension or abolition of the same " and for annexing to the See of Truro the advowson of the Rectory of Falmouth " and for other purposes " and providing for the collection by the mayor aldermen and burgesses of the municipal borough of Falmouth of the rate by the Act 16 Charles II. chapter 18 authorised and the appropriation of such rate for the purpose amongst other things of the repayment within such period as therein prescribed of the sum of six thousand pounds with interest thereon as herein-after mentioned and vesting the right of presentation to the said rectory for ever thereafter in the Right Reverend John Lord Bishop of Truro and his successors for the time being Bishops of Truro herein-after respectively referred to and included in the expression "the bishop" And whereas the vendor is willing to sell the said advowson and right of presentation as beneficial owner for the sum of six thousand pounds and in order to facilitate the passing of the said Bill into an Act has agreed to enter into the conditional agreement herein-after contained for the sale of the said advowson and right of presentation and the conveyance of the same to the bishop Now these presents witness that it is hereby mutually agreed between the parties hereto as follows (that is to say):—

1. The vendor will sell and the purchaser will purchase at the price of six thousand pounds all that the advowson and perpetual right of presentation of and to the said rectory and parish church of Falmouth and the rights and appurtenances thereto belonging in fee simple free from incumbrances.

2. The said advowson and perpetual right of presentation shall on the completion of the purchase be conveyed by the vendor to the bishop.

3. The vendor will within one month after the passing of the said Bill and its receiving the Royal Assent deliver to the purchaser or to Mr. George Appleby Jenkins of Penryn his solicitor an abstract of his title to the said advowson.

4. All objections and requisitions in respect of the title or the abstract or particulars or anything appearing therein respectively shall be stated in writing and sent to the vendor's solicitor within twenty-one days from the delivery of the abstract and all objections and requisitions not sent within that time shall be considered to be waived.

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5. The purchase shall be completed and the purchase money paid at the offices of Messrs. Maples Teesdale and Co. solicitors No. 6 Frederick's Place Old Jewry London E.C. on the 23rd day of December 1896.

6. In case of a vacancy in the said rectory by the death resignation or promotion of the present rector while this contract remains in force but before the execution of the conveyance to the bishop in pursuance thereof the vendor will not present thereto until the title has been accepted and the purchase money paid and will then at the request and expense of the purchaser present such person (being duly qualified) as the bishop shall nominate Provided that the vendor shall not be bound to abstain from presenting to the said rectory under this article for such period as would cause the right of presentation thereto to lapse.

7. This agreement is conditional on the said Bill being passed into an Act on or before the twentieth day of August one thousand eight hundred and ninety-seven and if the said Bill shall not be passed into an Act on or before the said day or in case the vendor cannot make a good title to the fee simple of the said advowson and right of presentation free from incumbrances this agreement shall become void and neither vendor nor purchaser shall make any claim against the other of them for costs or on any other account whatever.

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

FREDERICK JOHN HORNIMAN.

Witness

CHARLES GREGORY

13 King Street Whitehall London  
Articled Clerk

R. C. DENTON.

Witness

CHARLES WRIGHT

Solicitor Sunderland.

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