

Special Reference in the Matter of the Union of the Benefices of Great  
Massingham and Little Massingham, Norfolk.

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE  
PRIVY COUNCIL, DELIVERED THE 23RD FEBRUARY, 1931.

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*Present at the Hearing :*

LORD BLANESBURGH.

LORD TOMLIN.

SIR LANCELOT SANDERSON.

[*Delivered by* LORD TOMLIN.]

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This is an appeal to His Majesty in Council against a scheme framed by the Ecclesiastical Commissioners under the powers of the Union of Benefices Measure, 1923, for the union of the benefices of Great Massingham and Little Massingham, in the County of Norfolk and in the Diocese of Norwich.

The appellants are (1) the Rector of Little Massingham, who is also the patron of the living; (2) the Parochial Church Council of the Parish of Little Massingham; (3) the patron of the living of Great Massingham; and (4) a landowner who represents the tithe payers in the two parishes of Great Massingham and Little Massingham.

The parishes in question are situate in West Norfolk, some eight or nine miles to the south-west of Fakenham. The district in which they lie is sparsely populated but singularly rich in churches.

The parish of Great Massingham covers an area of 4.242 acres, and contains somewhat more than 726 inhabitants.

The church has sittings for 350 persons. The parsonage house is of substantial size, containing 4 living rooms and 14 bedrooms. The present incumbent has held the living since 1896.

The net annual income of the living is approximately £900.

The parish of Little Massingham covers an area of 2.289 acres, and contains somewhat more than 235 inhabitants.

The church, which is situate about a mile to the north of the church of Great Massingham, has sittings for 150 persons.

The parsonage house is a large house of 18 bedrooms, in

which the present incumbent carries on a boarding school. The living has been held in succession by three generations of the family of the present incumbent. He succeeded his father in 1924, and his grandfather had been his father's predecessor. The school was carried on under the present incumbent's predecessors. The net income of Little Massingham is about £540.

In both churches there has been in the past ample provision of services, and in both parishes there appears to be active religious life.

In pursuance of the powers of the Union of Benefices Measure the Lord Bishop of Norwich required a body of four commissioners, nominated in accordance with the provisions of the Measure, to inquire into all the facts and circumstances of the two benefices relevant to the question of their union, and to report accordingly.

The commissioners held a public inquiry at Great Massingham on the 15th December, 1928, and subsequently presented an unanimous report making the following recommendations, that is to say :—

- (1) That the benefices be united.
- (2) That the name of the united benefice be Great with Little Massingham.
- (3) That the parishes be not united.
- (4) That the Great Massingham house be the parsonage house of the united benefice.
- (5) That the union take effect on the first avoidance of Little Massingham.
- (6) That as regards patronage the first turn after union belong to the patron of Little Massingham, and the second and third turn to the patron of Great Massingham, and similarly in the case of every three turns thereafter.
- (7) That an endowment of £1,200 per annum net be appropriated to the united benefice out of the endowments of the separate benefices.

The Lord Bishop of Norwich, on receiving the report, transmitted it to the Ecclesiastical Commissioners, and signified in writing his approval of the report, and thereupon the Ecclesiastical Commissioners prepared a draft scheme for the union of the benefices in question, and published the same.

The draft scheme gave effect to the recommendation of the report, except that it provided for a charge upon the endowments of the livings of £500 per annum in favour of certain other benefices in the diocese of Norwich, leaving, therefore, only about £940 per annum, instead of £1,200 per annum, as the endowment of the united benefice. It also provided for the sale of the parsonage house of Little Massingham, and for the proceeds of sale to be added to the Expenses Fund established pursuant to section 32 of the Measure.

From the first the proposal to unite the benefices aroused great opposition. At the public inquiry the rector of Great Massingham declared (and it is said with truth) that he was the only parishioner of either parish who recommended the proposed union. The opposition within the parishes has been throughout, and is practically unanimous, and the proposal has been severely criticized by a number of persons and bodies within the diocese but outside the parishes.

After the lodging of objections to the draft scheme, the Ecclesiastical Commissioners amended the draft scheme by cutting down the amount to be charged in favour of other parishes to £250 per annum, and by inserting a provision to the effect that such sum as might be necessary, not exceeding £150 per annum, of the income of the united benefice should be set aside for the provision of clerical or lay assistance in the performance of the duties of the united benefice.

These alterations, though perhaps not unwelcome as signs of weakness, did nothing to appease the objectors. The opposition continued undiminished, and this appeal is the result.

In their Lordships' view the case raises a question of principle. The Measure provides in subsection 6 of section 2 as follows :--

"The Commissioners" (*i.e.*, the Commissioners appointed to enquire and report) "shall in making any report under this Measure have full regard to the circumstances and interests of the parishes affected by their inquiry, and it shall be the duty of each and every of the Commissioners to consider the matters under inquiry in their relation to such circumstances and interests and to the interests of religion in England generally."

It is to be observed that, except so far as it is to be found in this subsection, there is no statement in the Measure of the principles which are to govern the union of benefices. Further, it is notable (1) that there is no power to divert to other purposes any part of the endowments of any benefice except on the occasion of a scheme of union; (2) that where a union of benefices is proposed the question of the diversion of surplus revenue seems, under section 15 of this Measure, to be for the consideration of the Ecclesiastical Commissioners, not as one of the factors for determining whether there shall be union, but as a point for examination after a conclusion in favour of union has been reached; and (3) that in any case there can be no diversion of revenue except for the benefit of other benefices in the same diocese.

Now the matters to which reference has been made point, in their Lordships' judgment, to the conclusion that to justify a union it is not enough to show that one incumbent could serve the parishes affected, and that a union would therefore save man power and might also produce surplus income available for other benefices. The circumstances and interests of the parishes themselves must be regarded.

In the present case the matter stands thus. Each of the parishes concerned is a complete unit, fully equipped with all

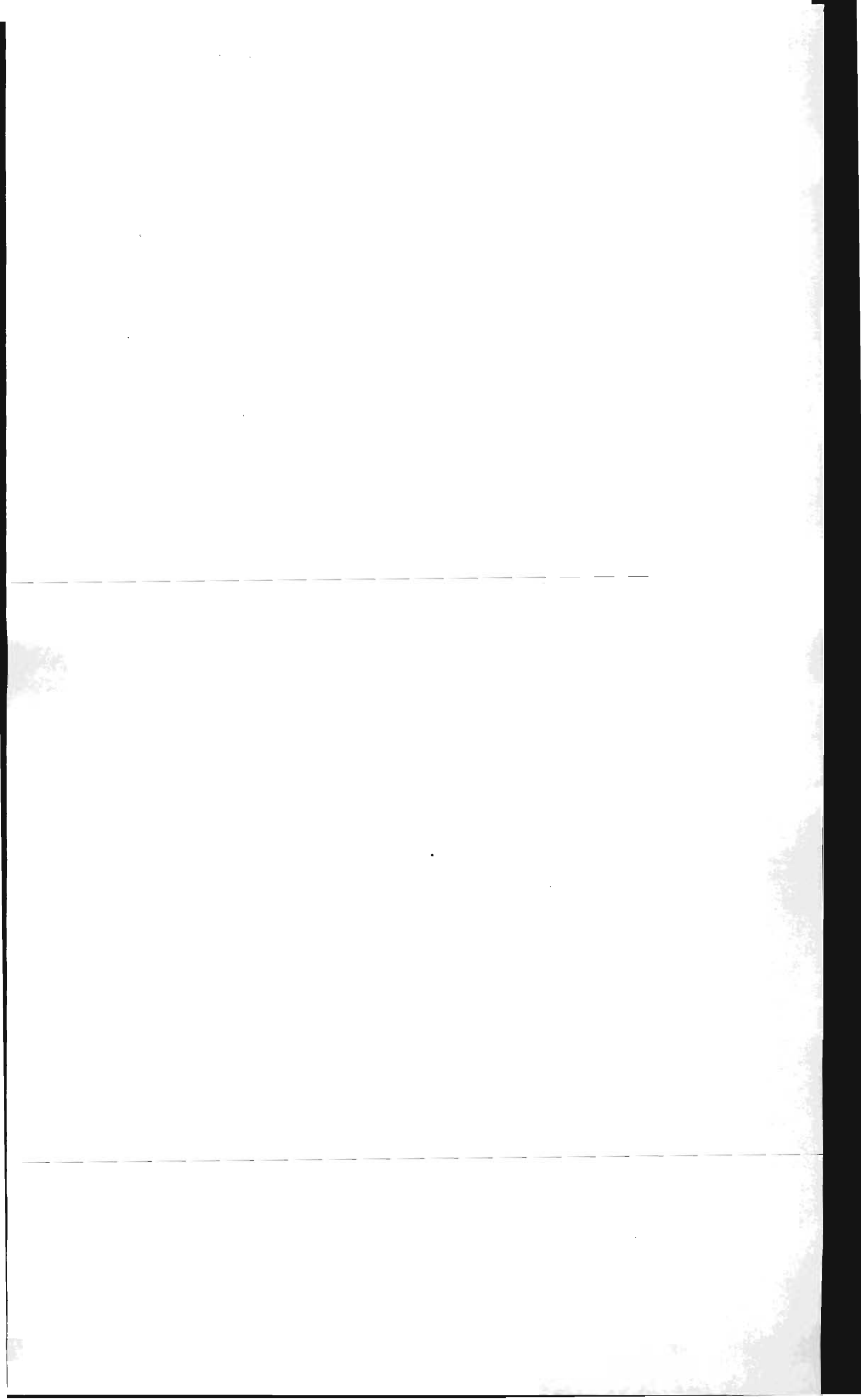
that is necessary for parochial church life, including adequate emoluments for the incumbent, nor has there been in either parish any change of circumstances calling for a readjustment of conditions. It is admitted that the union must result in a measure of loss to the parishioners, and no advantage from union can be indicated as likely to accrue to them.

Further, if the saving of man power and the diversion of surplus revenue are invoked to justify union, the amended scheme is open to two criticisms, namely: (1) that it proceeds upon the footing that it is uncertain whether one incumbent can, unassisted, do the work of the united benefice, and (2) that it leaves the incumbent of the united benefice with emoluments so large as to be out of scale with the normal emoluments of such an office.

In these circumstances ought union to be effected to the disadvantage and against the wishes of the parishioners?

In their Lordships' judgment the principles already indicated were recognized and applied by their Lordships' Board *in the matter of the Parishes of Gussage All Saints and Gussage St. Michael* (69 Sol. J. 493), and require, in the present case, a conclusion unfavourable to the scheme.

Their Lordships will accordingly report to His Majesty in Council recommending that the scheme be dismissed.



In the Privy Council.

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MASSINGHAM AND LITTLE MASSINGHAM,  
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DELIVERED BY LORD TOMLIN.

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