

Special Reference in the matter of the Union of the Benefices of Edburton and
Poynings (Chichester).

REASONS FOR REPORT OF THE LORDS OF THE JUDICIAL COM-
MITTEE OF THE PRIVY COUNCIL, DELIVERED THE 17TH NOVEMBER,
1933.

Present at the Hearing :

LORD ATKIN.

LORD TOMLIN.

LORD THANKERTON.

[*Delivered by* LORD TOMLIN.]

In this case their Lordships have already humbly reported to His Majesty in Council that the scheme should be dismissed and they will now state the reasons for their report.

These two benefices comprise two parishes adjoining the South Downs, about 10 miles north-west of Brighton.

The net annual income of Edburton is £388 per annum and that of Poynings is £430 per annum.

In the parish of Edburton there is, in addition to the parish church, a mission church at which services are held.

The present incumbent of Edburton is a high churchman, while the incumbent of Poynings is an evangelical. The churchwardens of Poynings stated at the enquiry that no change was desired in the character of the services at Poynings.

The Edburton parish church is an interesting early thirteenth century church, and many persons visit it in the course of the year and by their contributions provide a considerable income for the parish. The church stands apart from any dwelling except the rectory, and it is said that if the rectory ceased to be occupied as a rectory there would be difficulty in finding anyone to look after the church. Poynings rectory is over two miles from Edburton church. There is some evidence that building developments are probable in the near future in the parish of Edburton.

The commission of inquiry was appointed to enquire into the question of the union or unions of any two or more of four benefices, namely, Pyecombe, Newtimber, Edburton and Poynings. The commissioners were seven in number, namely, a chairman nominated by the Ecclesiastical Commissioners, the

Archdeacon of Lewes, nominated by the Bishop, a nominee of the patron and parochial church council of each of the four benefices, and the Rural Dean of the Deanery of Hurst nominated by the Diocesan Union of Benefices Committee.

The commissioners in their report recommended the union of the benefices of Pyecombe and Newtimber, and this union was in due course carried out. They also recommended (*inter alia*) (1) the union of the benefices of Edburton and Poynings; (2) that the rectory of Poynings should be the parsonage house of the united benefice; and (3) that in the case of Edburton and Poynings the united endowments were not too much as the parsonage house was a large one.

The Bishop on receiving this report did not, so far as Edburton and Poynings were concerned, signify in writing his approval of it.

On the contrary he endorsed upon it the following words:—

“Approved as to union: with reservation that the income of the united Benefices in each case should be limited to £500 net and the surplus allocated to other Benefices in the Diocese of Chichester (Sgd.) George Cicestr. 27.10.31.”

Nevertheless the Ecclesiastical Commissioners prepared a scheme for the union of the benefices of Edburton and Poynings in which they gave effect to the recommendations of the report in regard to this parsonage house, but notwithstanding the recommendation as to the endowment contained in the report provided for the alienation of a substantial part of the endowments in favour of other benefices in the diocese.

In their Lordships' judgment there never was in this case any approval by the Bishop of the report as required by section 4 (1) of the Measure, with the result that the Ecclesiastical Commissioners had no jurisdiction to cause a scheme to be prepared. This being so the scheme appealed against ought in their Lordships' opinion to be dismissed, but it is right to add that their Lordships are not satisfied that the present scheme upon its merits ought in any case to be affirmed.

Before parting with this case their Lordships desire to add a word upon a matter of some importance. In this case criticisms were made as to the way in which the enquiry was conducted, and there is no doubt that there was some misunderstanding on the part of some of the commissioners as to the nature of the proceedings and the effect of what was being recommended in the report.

Their Lordships are satisfied that there was no ground for complaint against any of the commissioners.

Their Lordships, however, desire to point out that in all these cases it is important that the enquiry should both be and appear to be impartial and that having regard to the composition of the commission as prescribed by the Measure the independence of the chairman selected by the Ecclesiastical Commissioners is

of great importance and should be free from all possible question. For this reason in their Lordships' opinion it is undesirable that he should be connected in any way officially with the Ecclesiastical Commissioners, or be so frequently engaged in discharging the functions of chairman of such enquiries as to afford any ground for the suggestion that he is present to represent the views of the Ecclesiastical Commissioners.

In the Privy Council.

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DELIVERED BY LORD TOMLIN.

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