

In the Matter of the War Memorial, Mundford,
Breckland District, Norfolk.

DECISION

This reference relates to the question of the ownership of land (a small piece) known as the War Memorial at the junction of Thetford - Mundford and Brandon - Swaffam Roads, Mundford, Breckland District, being the land comprised in the Land Section of Register Unit No. CL. 233 in the Register of Common Land maintained by the Norfolk County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference no person claimed to be the freehold owner of the land in question and no person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Norwich on 17 July 1975. At hearing Mundford Parish Council were represented by Mr W. R. Emms their chairman, and the parish of Lynford and West Tofts were represented by Mr G. F. Rand who is chairman of the Parish Meeting. Mr ~~Emms~~ ^{Emms} also represented the village of Cranwich (for which there is no parish council or parish meeting), he being a member of Breckland District Council for Ward 20, a ward which includes the village.

The land ("the Unit Land") comprised in this Register Unit is triangular, each side being about 10-15 yards long. On it there is a war memorial with the names of those of Cranwich, Mundford, Lynford and West Tofts who died in the wars of 1914 - 18 and 1939 - 45. It is by the side of an important road junction where the A.154 crosses the A.1065. Mundford is a substantial village (with a population of more than 1,000) a little to the north; Lynford and West Tofts are much smaller and some way to the east; Cranwich has a population of about 30 and a church and is some way to the west.

Mr Rand in the course of his evidence (given by reference to his letter dated 3 July 1975, see file 25/U/20) said (in effect):- Captain Frederick James Osbaldeston Montagu the former owner of the Lynford Estate at the dedication service on Sunday 22 November 1920 gave the land to the Parishes as appears from a press cutting (produced by Mr Rand from the Eastern Daily Press dated 25 November 1920: "He gave the Memorial to the bereaved relations. He wanted them to look upon it as their own, and from now onward to think that it belonged to them and it was their privilege to look after it and care for it". A press cutting (also produced) from the Lynn News and Advertiser for 26 November 1920 is to the same effect.

Mr Emms in the course of his evidence produced a letter dated 22 February 1970 signed by Mr J. Cawston (now deceased) to Mr Chinn (a ~~local~~ local resident) in which Mr Cawston said (with reference to the Memorial) that he was one of the Committee to go to Lynford Hall to meet Captain and Mrs Montagu and decide where a memorial should be erected, that he said where would you surgest Cawston, that he (Cawston) replied the cross roads, and that Captain Montagu said: "I will give this memorial and site to the Parishes of Mundford, Lynford, West Tofts and Cranwich and if be up to the people to look after it". Mr Emms also produced a letter dated 23 September 1970 from Colonel



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J. Impson, the chairman of the British Legion in which he said that the Mundford Branch had in the past assumed responsibility for the upkeep of the Memorial, and it had at a recent meeting been agreed that the Mundford Parish Council should be asked to take it over under the War Memorials (Local Authorities Powers) Act 1923 and section 8 of the Parish Councils Act 1957.

Mr Emms said that his Parish Council would like to take over the Unit Land, but recognised the interest of Cranwich, Lynford and West Tofts in it. He and Mr Rand agreed that it should if possible be vested in the Parish Council and the Parish Trustees of the parishes concerned.

Properly to give effect to his wishes, Captain Montagu should in 1920 have conveyed the Unit Land jointly to the Parish Council of Mundford and to the chairman of the parish meeting and overseers of the other Parishes, they being bodies corporate established by section 19 of the Local Government Act 1894 for the purpose (among others) of holding land. Notwithstanding that it is practically certain that Captain Montagu never made any such conveyance, I consider that for the purpose of giving effect to his proved wishes and of regularising the use for the last 50 years of the land for the purpose of these Parishes, that I can and should presume that he or his successors in title at some time made such a conveyance and that it has been lost, see Tehidy v Norman 1971 2QB 528. If such a conveyance had been made, the estate of the chairman and overseers would under section 47 of the Local Government Act 1933 have passed to the Representative Body of the Parish and under section 13 of the Local Government Act 1972 to the Parish Trustees.

For the above reasons I am satisfied that the Parish Council and the Parish Trustees are the owners of the land, and I shall accordingly direct the Norfolk County Council as registration authority to register (1) Mundford Parish Council, (2) the Parish Trustees of Lynford and West Tofts, and (3) the Parish Trustees of Cranwich as the joint owners of the land under section 3 (2) of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 1st day of *October* 1975

A. A. Baden Fuller

Commons Commissioner.