



In the Matter of the
War Memorial, East Markham,
Bassetlaw District,
Nottinghamshire

DECISION

This reference relates to the question of the ownership of land known as the War Memorial at the junction of High Street and Farm Lane, East Markham, Bassetlaw District being the land comprised in the Land Section of Register Unit No. CL 82 in the Register of Common Land maintained by the Nottinghamshire 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 one 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 Nottingham on 14 May 1985. At the hearing East Markham Parish Council were represented by Mr William Bernard Clark their chairman; present also was Mrs Rosaline Andrews their vice-chairman.

The land ("the Unit Land") in this Register Unit is approximately an equilateral triangle with sides of about 15 yards or less, its north-east side being open to the High Street, its south-east side being open to a slip road from the High Street to Farm Lane and its west side being fenced between it and enclosed lands held with buildings known as Island Cottage. On the Unit Land is the Village War Memorial, a broken column together with names in granite with steps leading down to flower beds surrounded by a chain fence on concrete pillars about 2 feet 6 inches high and edged with grass. On the Memorial (in addition to names from both wars) is inscribed "ERECTED BY H COWLISHAW Esq OF THIS PARISH".

Mr W B Clark who has resided in the parish since 1967, has been a member of the Parish Council since 1979 and chairman for just over a year in the course of his evidence produced the 1918-1938 minute book of East Markham Parish Council. Of the entries in this book, about the Unit Land that made of a meeting on 23 September 1920 is the most informative:-

The question of the Postal Telephone post which obstructed a full view of the War Memorial erected by Mr H Cowlshaw, upon land given by Mrs Drinkwater and presented to the Parish and vested in the Parish Council. The Council was of the opinion that the Postal Authorities should be approached as to whether or not this post should be moved so as to give an uninterrupted view of the monument. The Clerk was instructed to draft a letter to the Postal Authorities on the matter and submit the same to the chairman before posting, approved.

Other entries showed annual payments for "care of War Memorial", starting 23 March 1928 £1:5:0 annually until 1931 and in the 1930's steadily going up.

Mr Clark said (in effect):- The 1920 minute is after the erection; there are in the book no minutes about the actual erection before 1920. He understood that what was given by Mrs Drinkwater was formerly part of the garden of Island Cottage (as appears likely from the appearance). The Parish Council had not got a deed of



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gift made by her, and he (the witness) thought it unlikely that she ever made one. The present occupier of Island Cottage looks after the area surrounding the Memorial so it has always been neat and tidy with wall flowers and bedding plants. In 1978 the Memorial was refurbished (cleaned) at a cost of very nearly £200 paid by the Parish Council. In 1980 the fence between it and the Island Cottage land was replaced by the Parish Council.

Mrs R Andrews who has lived in the village since 1975, was Parish Clerk from 1976 to 1978 and has been vice-chairman of the Parish Council since 1980 said that she remembered the 1978 refurbishment mentioned by Mr Clerk.

Even if neither Mrs Drinkwater nor any succeeding owner of the Island Cottage land ever made a deed of gift in favour of the Parish Council, by allowing a memorial to be erected on the Unit Land and the Parish Council to maintain it, she and her successors have precluded themselves from claiming adversely to the Council. That a Parish Council is a proper person to own a war memorial is → I think shown by the War Memorials (Local Authorities' Powers Act) 1923 which enables such authorities to incur reasonable expenditure in the maintenance repair and protection of any War Memorial "which may be vested in them". On the evidence summarised above I conclude that the Parish Council are and have been at least from 1926 in possession of the Unit Land, and I am therefore satisfied that they → are the owners of the land; → I shall accordingly direct the Nottinghamshire County Council, as registration authority, to register East Markham Parish Council as the owners of the land under section 8(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 19th — day of December 1985.

A. A. Baden Fuller

Commons Commissioner