

Neutral Citation Number: [2019] ECC Lei 6

IN THE CONSISTORY COURT OF LEICESTER

IN THE MATTER of BAGWORTH, HOLY ROOD

AND IN THE MATTER of a PETITION FOR A CHURCHYARD MEMORIAL

CHANCELLOR BLACKETT-ORD

The Feast of St Andrew the Apostle

30 November 2019

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## JUDGMENT

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1. There is before me a Petition by the Commonwealth Graves Commission for a faculty to authorise the erection of a memorial headstone to the late Sergeant Linford in the churchyard of the church (now demolished) of Holy Rood, Bagworth.
2. The Imperial War Graves Commission was incorporated by Royal Charter on 21 May 1917 as varied by a Supplemental Charter dated 8 June 1964 which changed the name of the Commission and made other alterations to its organisation but none, I believe, which are relevant to us.
3. Under clause 1(1) of Part V of the Charter of 1971, the purposes of the Commission were declared to be primarily the acquisition and holding of land

for the purpose of cemeteries for those “who shall have fallen in the present War”.

4. The word “fallen” is given a widened meaning in the definition section at Part I:

““Fallen” means died from wounds inflicted, accident occurring or disease contracted, while on active service, whether on sea or land.

In addition, the Commission is given this power in Part VI(4):

“to make provision for the care of all graves of officers or men of our said forces who shall have fallen in the present war and may be buried elsewhere than in such cemeteries as aforesaid”.

5. It is therefore clear to me that the Commission does have power to “make fit provision” for the care of a grave of a person who was not actually killed in the War but died of “disease contracted whilst on active service”.
6. The little we know of Sergeant Linford (who seems to have no traceable relations today, although the advertisement of the present Petition might result in some coming forward) is this. Military records evidence that he was discharged from his regiment on 13 July 1917 suffering from illness which originated from active service in Arras, and the illness resulted in his death on 18 June 1918.
7. The Bagworth funeral register records his burial on 22 June and notes, “military funeral”.
8. A difficulty in the case is that although Sergeant Linford was evidently buried in the churchyard, no record of the position of his burial has survived, and no notification of the burial was passed to the Commission by the service authority. Only recently was the state of affairs discovered by the Commission. Now, over

one hundred years later, the Commission makes an application to install a “standard War pattern headstone in the churchyard with a superscription, “buried elsewhere in this Churchyard”.

9. I was troubled about this for a number of reasons:
  - (a) In the period of the First World War, a burial without a memorial was common; memorials were an exception. Sergeant Linford will certainly not be the only deceased person lying in the churchyard in an unmarked grave. One hundred years later, should he be awarded a memorial stone, whereas they are not?
  - (b) There may have been a perfectly good reason why he was not provided with a memorial stone.
  - (c) The purpose of a memorial stone is partly by way of commemoration and partly to identify where the body is laid. Here we do not know where the body is laid. This undermines half of the purpose of erecting a memorial at all.
10. I am however influenced by the support of the Petition from both the PCC and the DAC. Although the Commission might seem to be extending their power under the Charter to its very limits by offering a memorial stone to one who was not “killed” but only died of a disease acquired in France, and whose actual burial place cannot be found, I am satisfied that this does not take the Commission beyond the strict limits of its purposes as declared in its Charter.
11. So I am prepared to allow the Petition.

12. I direct that a faculty be granted accordingly.

Mark Blackett-Ord  
Chancellor  
The Feast of St Andrew the Apostle  
30 November 2019

IN THE CONSISTORY COURT OF LEICESTER

[2019] ECCLEI8

RE: BAGWORTH, HOLY ROOD

RE: A PETITION FOR A CHURCHYARD MEMORIAL

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**JUDGMENT**

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Registrar of the Diocese of Leicester