

**Neutral Citation Number: [2022] ECC Lin 1**

**IN THE CONSISTORY COURT AT LINCOLN**

In the matter of a Petition 2021/75

And in the matter of The Langtoft War Memorial, St Michael's Langtoft.

Judgment

1. This is a Petition for a Faculty to (i) add the names of three men who were killed in the First World War whom it is submitted have been omitted from the war memorial at Langtoft in error and (ii) to clean the war memorial.

Addition of three names

2. This aspect of the Petition concerning the new names is based upon the careful research of Mr Nick Carr who has provided me with historic evidence for these men's links to Langtoft, their military service and death in the First World War and whether their names are on other memorials.
3. I must first pay tribute to the work of Mr Carr in researching whether local men who have a link to Langtoft have been omitted from the Langtoft Memorial and should now be included. All these men have made the ultimate sacrifice for the greater good of their country in the horrific circumstances of the war on the western front. They are all worthy of our greatest respect for the sacrifice they made, which should be remembered by us all by the inscription of their names on a war memorial.
4. The three men are:
  - (i) John Smith: born and baptised in Langtoft but aged 12 was living with his uncle in Bourn. He joined the 1<sup>st</sup> Battalion Lincolnshire Regiment. He was killed in action 23/2/1915. He seems to have been living apart from his wife who was in

Liverpool at the time of his death. Mr Carr submits that the John Smith on the Bourne War Memorial has a second name 'Jesse' and therefore is a different John Smith to the one he submits should now be added to the Langtoft memorial.

- (ii) George Kendal: born and baptised in Langtoft. He enlisted in the 1<sup>st</sup> Battalion Lincolnshire Regiment and died of his wounds 19/11/1914. By the time of his death he was living and working in Spalding and had married his wife in the church at Spalding just three months before he died. His name is recorded on the Spalding war memorial.
- (iii) Albert Canham: he was born and brought up in Peterborough. He joined the 3 / 4 Northamptonshire Regiment. He died of his wounds on 24/11/1916. He married his wife in Langtoft on 9/11/1915 and his widow lived in Langtoft with her family. His name is recorded on the Roll of Honour at Peterborough Cathedral.

5. Mr Carr has raised a question on the Langtoft village Facebook page asking people to say what in their view makes a 'Langtoft man': birth and/or upbringing and/or residence? The consensus was, he submits, that all three criteria were valid qualifications for a 'Langtoft man'. He considers that there is sufficient to link these three men with Langtoft for them to be included on the Langtoft war memorial. He considers that it may be at the time of their deaths those in the village would have been unaware that two of the men who had no family in the village at the time of their death (John Smith and George Kendal), had been killed.
6. Now that local historians have access to the resources of the internet it is much easier to research the lives of those who died in the Great War. It may be that there will be further Petitions of this kind and I consider that it would be helpful if I set out my approach to these applications.
7. My concern is that with the effluxion of over a century since these men died, the deeply personal wishes of the deceased's family about where the deceased's name was to be inscribed, is now difficult if not impossible to know. A hundred years later we must be careful not to adopt an over-rigid categorisation about where names should (in our

view) be inscribed, or impose our own views over the wishes expressed at the time which are now impossible to elucidate. We should respect the now silent voices of the past.

8. The general principles I will apply are:

- (i) If the name is recorded on another war memorial there will be a presumption that the decision was made by the family at the time for the name to be inscribed on that memorial, and that decision should be respected. If that other war memorial is within the diocese or close to it, the more difficult it will be to rebut the presumption.
- (ii) If the name is not recorded on any war memorial, it is only when I am satisfied on the balance of probabilities that there has been a mistake made at the time in omitting that name from the memorial under consideration that the application can be considered. However in using the civil standard of proof I apply the approach of Lord Hoffman Re H (Minors) [1996] AC 563:

“When assessing the probabilities the court will have in mind as a factor, *to whatever extent is appropriate in the particular case*, that the more serious the allegation the less likely it is that the event occurred and, hence, the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability”.

I consider that making an allegation that a First World War memorial has failed for over 100 years to record a name that should be there, is a serious allegation given the sensitivity of these memorials both now and particularly at the time they were erected. This does not mean that I adopt a higher standard of proof than the civil standard, but that in my consideration of any submission that a war memorial has had a name omitted from it in error for over 100 years, the evidence in support of that submission must be strong, before I will accede to it.

9. Adopting that approach, both George Kendal and Albert Canham are recorded on war memorials elsewhere and the legal presumption set out at paragraph 8(i) operates. In the case of Albert Canham his name

is recorded on the Roll of Honour at Peterborough Cathedral which was the city where he was born and brought up. I am not satisfied it would be right to rebut the presumption just because his widow lived in Langtoft and because of the newspaper cutting that has been provided. In the case of George Kendal his name is on the Spalding war memorial within the diocese which was the town where he lived and worked and where he had just been married before his death. Again, there is insufficient evidence to rebut the presumption just because he was born in Langtoft.

10. In respect of John Smith I have noted the submission of Mr Carr that the name on the Bourne war memorial refers to another John Smith with the middle name 'Jesse'. However, upon consulting the South Lincolnshire War Memorials website which lists all the names on all the war memorials in this area, the name is recorded there as 'John Joseph Smith'. I have not seen the name 'Jesse'. The biography of John Joseph Smith on this website has his place of birth as Langtoft and the date of his death as 23/2/1915. Thus, on the face of it, it would seem that the John Smith who was born in Langtoft and who was killed on 23/2/1915 is inscribed on the Bourne War Memorial. This seems an appropriate place for him to be remembered given that he had lived in Bourne since he was 12 with his uncle. I am minded to conclude that I am not satisfied that the evidence establishes on the balance of probabilities that there was a mistake made at the time the inscriptions were made by omitting John Smith from any war memorial.

11. If John Smith is on the Bourne war memorial then the presumption at para 8(i) above applies and there is insufficient evidence to rebut the presumption just because he was born in Langtoft.

12. In reaching the provisional view that I have at paragraph 10 of this judgment, I have taken into account material publicly available on the internet but which neither Mr Carr nor the Petitioners have had the opportunity to comment upon. Taking that into account, I will give the Petitioners and Mr Carr, should they wish it, until 28/1/2022 to make any further submissions to me about the John

Smith inscription on the Bourne War Memorial before I make the final decision about John Smith's inscription.

13. That part of the Petition to add the names of George Kendal and Albert Canham to the Langtoft war memorial is refused. Should no further submissions be received before close of business on 28/1/2022 in respect of John Smith's name, that part of the Petition should also be dismissed

The cleaning of the war memorial

14. I grant a Faculty limited to this aspect of the Petition subject to the proviso of the DAC in their advice. The conditions I impose are:
1. The brushes used on the limestone must not be too harsh.
  2. If on cleaning the stone deterioration is found, the works must cease and further directions sought from this Court (having referred the matter to the DAC for advice).
15. I waive my fee in respect of this judgment.

The Revd and Worshipful HH Judge Mark Bishop  
Chancellor  
08/01/2022