

Text Of Skipworth's Decision In Trailer Case

Judge Declares Need Desperate

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they have such an interest in the subject matter as to give the court jurisdiction.—(Case of Wessinger vs. Mische, Vol. 71 Oregon Reports, page 239.)

The question to be decided in this case is whether or not by placing and maintaining trailer houses on the west portion of Sladden's park, it is a deviation from the purposes for which the park has been dedicated; this case is to be decided in view of the traffic and desperate situation of housing facilities in the city of Eugene and Lane county. In other words, a momentous emergency exists now in that there is no sufficient housing within Eugene and surrounding territory to properly furnish shelter for many of its citizens, and particularly the veterans who have been discharged from the army and are now returning to their homes.

None of the cases, and there are many of them deciding what is or is not a deviation from the purposes for which a park has been dedicated, has been decided under any national or local emergency comparable to the one which now exists in this locality, or for that matter in the United States.

It is decided by the Supreme Court of the State of Oregon in the case of Wessinger vs. Mische, supra, as follows:

"The construction by a city in a park of a garage in which to keep automobiles and motor trucks to be used by members of a park board and their employees in caring for the public parks of the city to be a purpose unless the city was authorized to erect the garage."

The building of the garage on one of the city parks of Portland was enjoined by the court.

Only for Emergency

The right of a court of equity to enjoin a purpose when it becomes a public nuisance is well settled. Wessinger, supra.

Church vs. City of Portland, 18 Or. 73—In this case it was proposed to construct a city hall with a jail in the building in which to house prisoners. The construction of this building was prohibited by the court on the ground that it was a deviation from the purposes for which the park was dedicated.

It must be borne in mind that the purpose to erect the buildings described in the Wessinger case and the church case were permanent improvements. In the instant case, under the terms of the contract, placing and maintaining the trailer houses on the park is but temporary and only to remain during the present housing emergency.

The courts have held that portions of a public park for hotel purposes, for the purpose of serving refreshments and for the establishment and operation of a race track have been upheld as not inconsistent with the public use. The use of portions of public parks for agricultural purposes, zoological and botanical gardens and conservatories and many other public purposes has been held in various instances to be a proper and legitimate use.

The use of the whole of a small park in reality forming part of a larger park for the purpose of

parking automobiles has been held to be a beneficial use instant to the use of the larger park. Such use has been held to extend to the sale of gasoline, although not to the sale of refreshments and automobile accessories. The building of cottages for tourists and maintenance of tourist camps has been held not to constitute a diversion of property devoted to park purposes.

Under the terms of a dedication for public use or purposes generally, a pesthouse is a public purpose for which the park may be properly used temporarily in an emergency. The devotion of a reasonable portion of a public park for use as an airport for recreational and other attendant purposes also has been held to be within the proper and legitimate uses for which public parks are created. (Vol. 39 American Jurisprudence, page 820.)

Many Veterans Back

It is clear from the evidence in this case that the housing situation in Eugene and vicinity is desperate. Since the ending of the German war and, later, the war with Japan, veterans in large numbers have been and are now returning to their homes in Eugene and Lane county. Moreover, a large number of veterans pursuant to an act of congress are seeking to enter the University of Oregon but are prevented from pursuing their education for the reason that they have no place in this city in which to live.

The federal government, the city of Eugene, the county court of Lane county, the University of Oregon, Veterans of Foreign Wars, the Red Cross, the Chamber of Commerce and others are making strenuous efforts to provide homes for returning veterans.

That an emergency exists in respect to housing can not be denied. In fact, the emergency is so apparent that the court may well take judicial knowledge of the situation and, too, Lane county has recently suffered tremendous loss in property and houses by reason of the recent floods.

Many people on account of the floods have been divested of their homes. Many families are living in one house. A crowded condition in many residences now exists. This condition is not conducive to the public welfare.

In fact, it is detrimental to the health, morals and general well being of our people.

I have heard the testimony concerning Sladden's park and its development and in addition to hearing the testimony I have made a personal inspection of the park. The park is an area 425 feet long and 305 feet wide.

There is a grove of fir trees on the eastern one-half of the park. It is proposed to place the house trailers on the western one-half of the park. The western one-half is a common picnic grounds and the fir trees are on the east one-half of the park and this area may be devoted exclusively for the use of the public. Picnics may be held in the fir grove and there is ample room for children to play on this portion of the park not occupied by the trailers.

Park Never Developed

I hold that by diverting the west one-half of the park to the use of the trailers the public generally and those who now use the park will not be materially affected. This park has never been developed by the city other than cutting poison oak, Canadian thistles and blackberry briars, and placing two swings in the fir grove, and other minor improvements, but the park never has, in fact, been developed by the city as a park.

People who live in the immediate neighborhood of the park have done some work in cleaning it up. A portion of the western one-half of the park has been cultivated and used for the purpose of planting garden. The western portion of the park has been used more or less as a cow pasture.

The plaintiffs' children and grandchildren will not be deprived of the privilege of using the park as before but the improvements contemplated will in the final analysis inure to their benefit and to the benefit of the public generally. The trailer houses are to be connected with the sewer. There is ample provision for garbage disposal, toilet facilities are to be constructed and the maintenance of the trailer houses and their use will be in compliance with the law regulating sanitation and health.

I admit that the trailer houses grouped as they are will not be pleasant to the eye of abutting property owners. When our army crossed the English

channel and landed on the beaches of Normandy the bristling guns of the Germans must have been unsightly to them. The bristling guns of the Germans in the Belgium bulge must have been unsightly to the soldiers many of whom lost their lives in that bulge.

Sniping Japs in the Pacific with guns bristling from treetops must have been unsightly to our soldiers. It is not by the mark that these veterans should not be housed in these trailer houses or the trailer houses placed on the park because it shocks the sensibilities of the people who have property surrounding the park. This is only temporary use and is not permanent.

Quote From Scriptures

A large majority of the citizens of Eugene live in comfortable homes, well heated, well lighted and living in all the conveniences of life. I am reminded of a portion of scripture which is as follows:

"Foxes have their holes, birds of the air have their nests, but the Son of Man hath nowhere to lay his head." Matthew 8:20.

Are these veterans to have no place to lay their heads? Are they to be cast out into the street? I say, "No," and I have authorities which I will now cite which support my opinion that the use of the park for these trailer houses is not a diversion of the park nor does it violate the purposes of the dedication.

It must be borne in mind that this park was dedicated "to the use of the public forever, all streets, avenues, parks and alleys." This is a public park and by housing soldiers on a portion of this park inures to the benefit of the public.

In the case of City and County of San Francisco vs. Linares (Vol. 108 Pacific Reporter, 2nd series, page 369) the court holds that the city has a right to excavate under the surface of Union square a space for the construction of a public garage in order to alleviate to some extent the congested traffic condition. The court, in its opinion, among other things says:

"A parking station when completed as proposed, in the operation thereof, will not be in any material respect or degree, detrimental to the original purpose for which said park was dedicated, or in contravention of the conditions of any grant under which said park was received."

Helped Ease Traffic

This case is in support of my conclusion that maintaining trailer houses on the west one-half of Sladden's park is not a deviation from the purpose of the dedication. The facts in the case just cited are that the city proposed to excavate under the surface of Union square for the purpose of constructing a public garage.

This was to be done for the purpose of alleviating traffic congestion in San Francisco to some extent and that by the placing of the garage under the surface of the square would to some extent relieve traffic congestion. During the construction period the park was in disuse for 10 months. After the construction was completed the surface use for ingress and egress occupied six and one-half per cent of the park surface.

The facts in the case of Slavich vs. Hamilton, (Vol. 257 Pacific Reporter) are that Adams park was located in the city of Oakland. It was proposed by members of the Grand Army of the Republic, the Veterans of Foreign Wars, the American Legion and other patriotic organizations of the city of Oakland to construct a memorial building on this park for the use of these organizations. The court decided that placing this building in the park is not a use inconsistent with park purposes.

In the case of State vs. Dodge City (Vol. 258 Pacific Reporter, page 387) the Supreme Court of Kansas upheld the right of the city to build and operate tourist camps on a public park. The city of Dodge City constructed 15 one-room cottages for the convenience of tourists, another cottage for a cookhouse. The city made a charge of 35 cents per day for camping privileges and a charge of \$1 per day for the use of the cottages, a small grocery store to be operated in the park under the management of the park custodian. The court upheld the right of the city to construct these cottages on the public park involved in that suit.

Navy Recruiter Cites Benefits For Enlistees

Men enlisting in the navy now may still qualify for benefits guaranteed war veterans under the G. I. bill of rights, according to a statement today by T. A. McGinnis, recruiter in charge of the area.

The outstanding features of this law are assurance of college education, home and business loans, mustering-out pay, unemployment insurance and adequate hospitalization. Mustering-out pay will be paid to men who qualify even though they continue to make the navy a career, he pointed out.

The next International Oil Exposition will be held at Tulsa, Okla., in 1947. The expositions were suspended during the war.

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Junction Boys Plant Playground Trees

JUNCTION CITY—Boys of the agriculture classes of the high school, under the direction of their teacher, Joe McClure, are planting hawthorne trees around the district No. 89 playground on Sixth and Laurel streets this week. Two varieties of hawthorne are being planted, one blooming later than the other so a longer blooming season may be enjoyed. Charles Parson, who has received special instruction by the nurseryman, is pruning the trees, and the four maples already in the Sixth street parking area are being grubbed out. Recent donors to the tree fund are: Mr. and Mrs. Max Strauss and son, Mike, \$5; Peter and Ella Miller, \$3.50.

Women Learn Tailoring

In answer to a number of requests, the local school district in cooperation with the state division of vocational education will offer a class in clothing construction and tailoring procedures to women of Junction City and community. The class will be taught by Miss Dorothea Parker, instructor in homemaking at the high school. It will include ten three-hour lessons, one each week, to be held in the homemaking rooms. It is hoped that individual problems in sewing can be met and that short cuts and professional finishes in tailoring may be demonstrated. There is no fee, and experience is not necessary.

Women interested are asked to send a postcard to the homemaking department at the high school or call 99 and leave their names. The date of the first class meeting will be announced later.

Several real estate deals were culminated recently in Junction City. Godfred Jensen has sold his home on Laurel street to Wm. Brochamp, who will take possession as soon as Mr. Jensen is able to find other living quarters. Marius Hansen has bought the S. M. Fries property on Kalmia street and Mr. and Mrs. Fries will move into the house which the Brochamps now occupy as soon as they in turn move into their newly purchased home.

Monday Calendar
6:30 p.m., Lions club will meet for dinner at Woodman hall.

7:30 p.m., Meeting of Rainbow Girls, followed by public installation of officers at 8:30.

7:30 p.m., North Lane district meeting of Girl Scout committee chairmen and leaders at grade school library.

Tuesday Calendar
2:30 p.m., Women's Council of Christian church will meet in social hall.

8:00 p.m., Eugene and Junction City high school conference basketball game in high school gymnasium.

8:00 p.m., Junction City chapter No. 111 OES will meet in Masonic hall.

Wednesday Calendar
10:00 a.m., Executive meeting

Deerhorn School Bus Changes Schedule

DEERHORN—Beginning Jan. 21, which marks the middle of the school term for this year, the classes at Deerhorn will begin at 9 for the remainder of the year. The bus will run on the same schedule, only one-half hour later in the morning, and the children will reach home about 4 instead of earlier. The Leaburg district will take its turn at having school at the earlier hour.

The White Elephant club met Wednesday for sewing and a luncheon at the home of Mrs. Dan Webster. The members tied a quilt for the hostess. Those present included Mrs. Ernest Watson, Mrs. Lloyd Koozer, Mrs. Earl Ramsey, Mrs. Raymond Bates and a former member, Mrs. Alice Odell of Eugene. At the February meeting, Mrs. Bates will entertain. There will be quilts to tie at that time.

Norman Scroggins is having a barn built on his farm property. He and several of the other neighbors are having brush and stumps cleared and bulldozed, preparing the land for farming. An Le Fever's outfit has been doing the work.

Pvt. Robert M. Shrode, recently arrived in the European combat zone for duty in the air forces. He landed at Le Havre, France, shortly before the end of the year, and was sent to the air field in Germany at Feldbruk, Bavaria, about 100 miles from Munich, according to a letter received from him.

He has been in the service a year and a half, training a short furlough at his home in late this fall.

Gale Partridge, young man recently enlisted in the navy, has also been discharged and the latter was discharged on leave after serving in the South Pacific.

Mr. and Mrs. John H. Miller, their two daughters and Joe O'Hara who makes his home with them, have moved to Oscar Millican place at Leavenworth. They have been in the O. Brower "Deerhorn" school since last May. Allen Bates has been enrolled in the school.

of the Methodist WSCS will meet at the parsonage.

2:00 p.m., WSCS will meet in church parlors.

8:00 p.m., Oasis lodge, IOOF, will meet in Odd Fellows hall.



Vogue says:

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Back-bend for each finger; arch it, stretch it, make each finger flexible



Wring the hands, smoothing from fingertips, hard over knuckles and palms.



Forearm up, relax your hand, lift it slowly, snap fingers up-right, stretch



Start open-handed, bring fingers down one at a time to meet the lower finger

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