

Judge Rules Against School Site Injunction

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to make more definite late Wednesday afternoon. After some consultation with Judge Wolff, plaintiffs' attorney Cecil Queseth of Salem and Attorney Abrams agreed to use evidence presented on the motions as that for the merits of the case, the temporary restraining order itself, without calling further witnesses. Once this was agreed, the judge made his ruling that quashed the injunction and dismissed the complaint.

Attorney Queseth called three witnesses in presenting the case for the plaintiffs. They were Ivan Luman, school consultant, schoolhouse planning, State Department of Education; LaVelle

Partlow, one of the plaintiffs; and Ivan Warner, who has carried the battle for the Irrigon site through the long controversy.

Luman also appeared as a witness for the defendants. Others for the defendants were Howard Glazer, architect who has been hired to draw plans for the new school building; Clarence Rosewall, chairman of the Morrow county Planning and Zoning Commission; and Irvin Rauch and Howard Cleveland, both directors on the school board and two of the seven defendants in the action.

1959 Survey Introduced

Luman, in examination by Attorney Queseth, brought out

facts concerning a 1959 survey by the State Department of Education which recommended that an administrative sub-district be formed in northern Morrow county in conjunction with northwestern Morrow county. It was also brought out that the Boardman site had not been formally approved by the State Department of Education.

In cross-examination, however, Luman said that many sites are purchased by school districts which are not approved by the State Department. Many are approved after purchase, he said, even though the law says they must be approved first.

In answer to questions by Attorney Abrams, he said that he knew of no cases where basic school support funds had been denied for this reason because it is "one of the hardest standards to police." He said many districts purchase land "away ahead of their needs."

Says Site Meets Standards

Attorney Abrams asked if the Boardman site would meet with state standards. Luman replied, "I think it would. I don't think there is any question against the site."

In re-direct, Attorney Queseth introduced a letter, after an objection by Attorney Abrams had been overruled, that Leon P. Minear, state superintendent of public instruction, had written to Warner in 1964 reaffirming the recommendations made by the department in 1959.

Judge Wolff then asked Luman, "As of right now there is no power of the state board at Salem to force children at Boardman and Irrigon to go to Hermiston, is there?"

Luman answered, "That's right. The State Board of Education has no legal power to say so."

Mrs. Partlow's testimony concerned the present enrollment of school children at Riverside from each community. Boardman and Irrigon. She said that a survey taken by Administrator Ron Daniels of Riverside showed that, except for children of temporary construction workers, 83 were presently coming from Irrigon and 38 from Boardman. Records later were taken from the county school office by direction of Judge Wolff and the attorney agreed to the figure of 82 from Irrigon and 64 from Boardman at the present time, including children of construction workers.

Noise Held Factor

Warner's testimony brought out the noise factor, and an exhibit introduced was the Boardman Relocation plan including recommendation of engineers that schools be located 20 miles or more from the missile testing site because of the noise factor.

He told of the recommendation of Dr. Hummel for the Patterson Junction site and described an executive session of the school board held during the course of the special open meeting on the night of March 17. He was asked to describe the discussion that took place.

Warner said that when he brought up Dr. Hummel's recommendation, Board Chairman Cleveland said, "Even professional men make mistakes."

"It was evident their opinions were made up," Warner said, referring to the four who later voted for the Boardman site. He said that he felt the noise factor was "very important and should be considered." He also expressed the opinion that transportation costs would be greater if the school were located at Boardman.

In cross-examination, Attorney Abrams pointed out that Warner had seconded a motion on No-

ember 24, 1964, when the Patterson Junction site was approved by the board, to construct a 6-year elementary school at Boardman.

"What is the difference in noise to the elementary and secondary school students?" Abrams asked.

Warner replied that he felt there was no difference, but if the Boardman people insisted on having a school located there for their children to attend, "that is up to them."

Favors Umatilla

He also stated that "we would be willing to go to Umatilla or Hermiston" in answer to the question on the 1959 recommendation. "We would go the same distance and have many more advantages," he said.

For the defendants, Rauch said that he changed his vote on the site when he was convinced that the board had made a mistake on the site chosen. Rosewall appeared on behalf of the county planning commission, which had recommended that a change be made from the Patterson Junction location because of the possibility that a third community might therefore develop at the location and because of the fact that no police and fire protection would be afforded.

Cleveland testified that he changed his mind on the site, even though as chairman he did not cast a vote, because he felt the Boardman site offered better educational opportunities and because of the economics involved. He reiterated an often expressed fear that delay in selection of a site might jeopardize some \$500,000 in funds from the Army Corps of Engineers, who might choose to settle through condemnation proceedings for the depreciated value of the present Riverside school rather than pay for a replacement in kind.

Corps Said 'Reluctant'

He said that a meeting with the Corps brought out that it (the Corps) seemed "reluctant" when the talk concerned moving the school to a site other than Boardman.

"If it were moved to the Patterson Ferry site, the Corps would not pay some of the costs that it would pay at Boardman," he said. "I did not feel that the Corps would pay for more than one facility."

He said the plan that would construct the six-year high school at Patterson Junction and a six-year elementary school at Boardman would be "considerably more expensive" because of duplication of services. He enumerated those of cafeteria, janitor services, and upkeep of grounds.

Cleveland said that in the ex-

ecutive session of March 17, Delos Williams, assistant superintendent of the administrative services, State Department of Education, told the board that land offered at Irrigon for the school was inadequate. It was brought out that additional land was available at Irrigon but Williams said that some of the property, considered "tidewater" land, could not be considered for school building.

When Judge Wolff questioned Cleveland, "Why did you go into executive session?" the board chairman replied that it "was very hard to sit down and consider all the factors involving the Corps, Dr. Hummel's recommendation, those of Delos Williams, and the Irrigon representatives at an open session."

"The executive session gave us a chance to bring our thinking together," he said.

The board reconvened in general session at 11:15 that night and the decision for the Boardman site was made in open meeting, testimony showed.

Given Chance to Speak

Cleveland said that all from Irrigon were given an opportunity to speak and some four or five made statements. He estimated that the majority of the large crowd present was from Irrigon and said he felt that at least 40 were from Irrigon.

Supt. David Potter and defendants in the injunction had often expressed fear that delay that might be caused by the suit might jeopardize some \$500,000 in funds from the Corps of Engineers because the district may fail to meet the schedule set up. It has only until April 26 to present a design memo, now in the process by Architect Glazer. Schedule calls for signing of contract for construction by July 1 of this year.

With the injunction quashed, the district is now free to go ahead with the planning.

Some 40 to 50 spectators were in the courtroom during most of the trial.

Warren Arraigned On Burglary Count

Wilber Wade Warren was arraigned in justice court of Earl Soward, Heppner justice of the peace, Wednesday on a charge of burglary not in a dwelling.

Bail was set at \$2500, and in lieu of posting bail, Warren was held in jail. He was arrested by state police Tuesday night and is accused of robbing the Richfield Station of Darold LaChance in Boardman. Some \$90 was taken from the till of the station, a state police officer said.

Masonic Service Is in Memoriam To 67-Year Member

The life of one of Morrow county's oldest and most active residents, Robert B. Rice, came to a close Thursday, April 15, at Pioneer Memorial hospital, at the age of 92.

Mr. Rice retired 15 years ago from operating his homestead ranch in the Lexington area. He came here from Pittsville, N.J., in 1906 and had resided here ever since. He was born in Pittsville August 4, 1872.

On June 24, 1907, he exchanged marriage vows with Laurel Lee Cobb in Portland. He was a 67-year member of Heppner Masonic Lodge No. 69, AF&M and a member of the Baptist church.

Funeral services were held Monday April 19, at 2 p.m. at the Heppner Masonic Temple with Paul Jones, acting worshipful master, conducting the ceremony. Interment followed in Heppner Masonic cemetery.

Surviving are his wife, Laurel Lee, one son Edward Robert Lee of Seattle Wn., and one grand-daughter Mrs. Eleanor Lee Oue-

Employment Talk Billed at Chamber

Charles Hoover of the State Department of Employment, Pendleton, will be guest speaker at the Heppner-Morrow County Chamber of Commerce luncheon meeting Monday, Randall Peterson, president, announces.

His talk will be concerned with the employment of youth, particularly those seeking summer work.

naus of San Francisco, Calif., who lived most of her youth with her grandparents.

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