
Prices Paid for Capitol Land Admitted

Court Admits Testimony As to State Purchase In Patton Case

After a bitterly contested legal controversy lasting nearly two hours in Judge McMahon's chambers, defense counsel Caster E. Rosa and John H. Carson took first blood in the Patton condemnation proceedings when the court permitted to go into evidence on cross examination testimony as to what the state paid for other property in block 88 in which the Patton home is situated. The ruling came only after strong objections from Assistant Attorney General J. M. Devers and Rex Kimmel, who are acting on behalf of the capitol reconstruction commission.

However, the admissibility of the testimony was tempered by the court ruling that it was admissible only to show, as contended by the defense that the capitol reconstruction commission had made no bona fide honest effort to reach an agreement with the owners by negotiation. Judge McMahon said that the jury would be instructed that the testimony was not to be taken into consideration in any way in fixing a fair market value of the property under condemnation or given any heed to that regard. If there had been no bona fide effort at reaching a price by negotiation it was agreed on all sides the condemnation proceedings would fail.

One of the vital issues in the case, stated the court, and raised by the defense, was whether any bona fide offer to negotiate by agreement was ever honestly made and he declared that anything which would throw light on the intent of the commission in this regard would be relevant and admissible "but could only be admitted to show the good faith of the commission in making the offer.

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Testimony so far, he continued, "shows only an arbitrary offer of \$32,000 and there is nothing to show the commission entered into any negotiations with the defendants."

"The commission told these defendants," interjected Attorney Carson, "to take \$32,000—or else."

Prices Already Paid

Defense counsel succeeded in securing admissibility of the testimony as to prices paid for other property after the state, through Devera, had placed in evidence resolutions and orders of the commission calling for condemnation of the Patton property. Immediately on such introduction Attorney Ross called attention to the fact that the resolution recited that other properties in Block 83 had been acquired by negotiation and agreement between the parties and that such gave the defense the right to cross examine the witness, Alton John Bassett, secretary of the commission, who offered the exhibits in evidence. This brought on the legal battle, with the jury excused and attorneys retiring with the court to chambers.

In chambers Attorney Ross pointed out that the defense, in light of the resolutions, had right to go into the question of what was paid for other properties on the ground that the commission was presumed to have followed the law and paid a reasonable market value for such properties. This, he said, showed that if by negotiation and agreement the commission had paid a fair market value for the other properties that the arbitrary offer for the Patton properties was unreasonably low and as such not an offer made in good faith.

\$32,000 Offered

In addition, it was brought out at the hearing in chambers, that the witness Bassett could be cross examined as to any conversation which may have occurred between him, Chairman McLean of the commission and Mrs. Edith Louise Patton and Luella M. Charlton, owners of the property, on their tender of the \$32,000 offer to the owners on April 6. This cross examination, it developed, was for the purpose of bringing out anything that might have been said at the time as to value of properties outside of block 83, especially the Bean and Lachmund properties.

Acting under ruling of the court, and under examination by Ross, Secretary Bassett gave the following prices paid for other properties in block 83 and dimensions of the properties: T. B. and C. M. Kay, irregular piece of land, \$44,800; Marjorie Huntington, 55x100, \$11,300; Josephine Baumgartner, 55x100, \$10,000; F. O. and M. E. Myers, 50x100, \$13,450; Florence A. Young, 45x88, \$5350; F. C. Bowersox, 48x88, \$8120; S. P. and Sarah Kimball, 75x88, \$14,850; W. L. Staley, 55x155, \$14,250; Ellen Edes Meyers, 42x155, \$12,750. In all of these sales, the witness testified, the owners received their houses back with the exception of the Kay home.

Memory Short

In further cross examination as to conversations had with Mrs. Patton and Mrs. Charlton, Bassett's memory proved short as to some of the questions put to him by Ross as to statements made by Mrs. Patton. Ross, in effect, asked Bassett if he remembered when at the Patton home the Henry J. Bean home was being moved away and that Mrs. Patton called attention to prices paid for the Bean and Lachmund homes and details as to each. He asked if Bassett remembered that Mrs. Patton said at the time that the property covered by the Bean and Lachmund homes was less in total area than the Patton property. He also asked if Bassett remembered that she told him the state gave \$34,740 for the Bean property and \$38,500 for the Lachmund property, that each kept their own home and that Lachmund sold his home for \$1000. He also asked him if he remembered that Mrs. Patton said the Bean home cost only \$6000 and the Patton home \$35,000. In each of these cases Bassett said he couldn't

remember Mrs. Patton making those specific statements.

Early, on direct examination, Bassett, in telling of their visit to Mrs. Patton with the commission's offer of \$32,000, said that Mrs. Patton had made a counter offer by stating she wanted "up in the fifty thousands."

Albert H. Buller, Portland realtor and broker, took the stand after Bassett had concluded. He had made an appraisal to the commission of the Patton property of \$32,150 for the land and \$300 for the improvements or a total of \$32,450.

Other witnesses who were to be called by the state were J. F. Ulrich, Melvin Johnson and W. G. Krueger, Salem realtors, and members of the Salem realty board appraisal committee, who had made a written appraisal of the property for the commission of \$32,133.50 which included \$31,333.50 for the land and \$800 for the building.

Banfield Wanted

Attorney Devers said he did not know whether T. H. Banfield, who was negotiator for the commission in all its dealings, could get here to testify but he hoped so. He hoped to prove by Banfield that the commission had had bona fide negotiations with the owners and had made an honest effort to reach a decision by agreement before condemnation was started.

Members of the jury sitting on the case are: Myra A. Fischer, housewife, Victor Point; Lloyd A. Lee, poultryman, Englewood; Jennie McClellan, housewife, West Stayton; Rose M. Magee, housewife, Scott Mills; Joseph J. Bowler, farmer, Crook; Lulu B. Mosher, housekeeper, Salem; Ella M. Vick, housewife, Salem; Laura A. Jackson, housewife, East Hubbard; Ole E. Corwick, retired, Salem; Robert B. Sears, salesman, Salem; Jessie M. Crawford, housewife, Salem; and William Zosal, farmer, Liberty.