Federal regulations which were generally adopted by the Washington statute. The requirement that activities advertised on permitted signs be within 12 air miles, the spacing and size limitations, on-premise, off-premise, etc., were all questioned as being invalid classifications. This court held each one to be valid.

A new element excepting the most recent Kentucky case was the question of the effect of the 1965 Federal act on the area of State billboard regulation, it being maintained that the Federal Supremacy Clause invalidated the State act because of conflicts between the 1965 Federal act and the Washington State act. The Supreme Court held that there was no intent to occupy the field and therefore no invalidation or limitation of the State act. This decision also develops further the idea that the operation of the billboards is a highway problem and not a regulation of private property since the effect of the billboard takes place upon the highway.

An extensive discussion on the part of the court about the evidence which was introduced. In Washington any findings of the trial court must stand unless it can be shown that those findings are unsupported by substantial evidence. With that rule on appeal, the Highway Commission could not take the chance that would have been present had they not made an active case to secure appropriate findings by the trial court. Consequently, they presented extensive evidence in support of the propriety of the act as a police power measure. (Markham Advertising Company v. State, Washington Supreme Court 39770.)

194-2 THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, THIRD APPELLATE DISTRICT, AFFIRMS JUDGMENT THAT AN EASEMENT FOR HIGHWAY PURPOSES ACQUIRED BY THE STATE IN 1930 COULD BE USED FOR A VISTA POINT AND ROADSIDE REST

The plaintiff (appellant) was the owner of an underlying fee of certain lake front property (Lake Tahoe) sought to enjoin defendant State of California, which owned a right-of-way thereover (a portion of State Highway No. 89), from maintaining a vista point and roadside rest on said property.

In 1930 the owner of a 36-acre tract of lakeside property conveyed to the State an easement or right-of-way for highway purposes, containing 1.98 acres, a large portion of which was not then intended to be used solely for the then about-to-be-built 24-foot road, and since it extended to the very lakeshore it could not have been intended ever to be occupied entirely by a roadway proper. The same year the State built a part of State Highway No. 89, including the part crossing the subject property. During the period from 1930 to 1964, no use was made by the State of the remaining lakeshore area within the grant between the easterly edge of the roadway and the shoreline of the lake. In 1964 the State commenced to utilize a portion of the lakeshore area as a vista point and roadside rest.

The plaintiff testified that she had constructed ramps for the launching and retrieving of boats and had kept boats moored in the lake. These facilities had been used by plaintiff, her visitors, and her tenants. This suit was filed in 1965.

The Court of Appeal confirmed the trial court's holding that establishment by the State of roadside rests and a vista point on this highway right-of-way was a contemplated prospective modernization of a legitimate highway use. (Beatrice R. Norris v. State of Calif. California Third Appellate District 3 Civil No. 11570).

COMMITTEE ON CONDEMNATION AND LAND USE CONTROL

LS-1

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