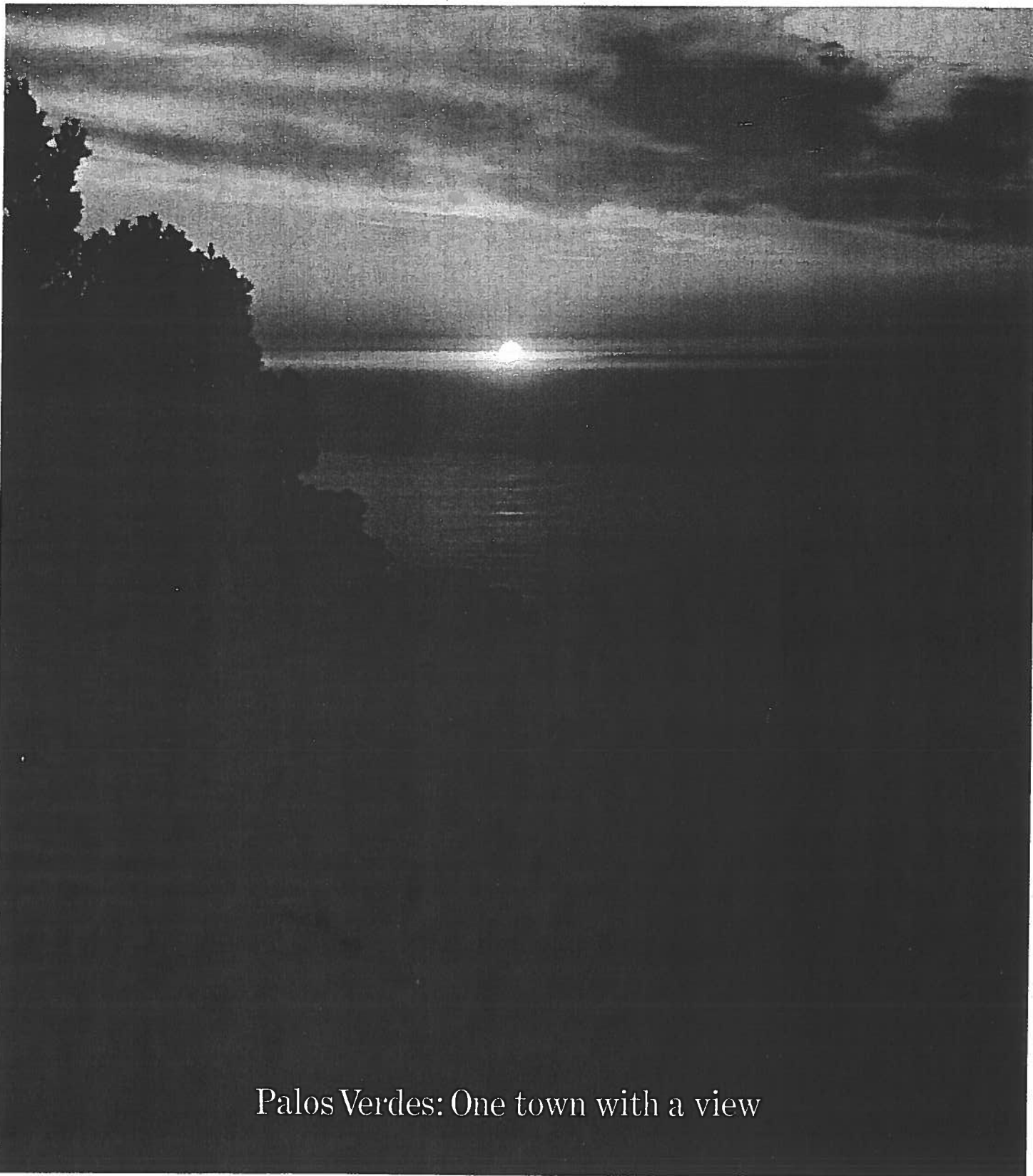


OPEN SPACE ACTION

May-June 1969

PALOS VERDES LIBRARY DISTRICT
MALAGA COVE LOCAL HISTORY
ROOM



Palos Verdes: One town with a view

Open Space Institute
145 East 52nd Street
New York, N. Y. 10022

Board of Trustees

Richard H. Pough
Chairman

James B. Ross
President

Charles E. Little
Executive Vice President

Mrs. Marshall Field

John Ripley Forbes

Richard D. Graham

John P. Keith

Miss Katharine Ordway

Samuel H. Ordway, Jr.

William B. Phillips

Gene W. Setzer

Gordon K. Smith

William H. Whyte

Senior Staff

Charles E. Little
Executive Vice President and Director

Ned C. Smith
Vice President for Operations

John G. Mitchell
Vice President for Publications

Richard E. Galantowicz
Executive Officer

Peter L. Johnson
Project Director

William G. Baranyay
Project Director

Alice Gwynn Ruste
Business Manager

The Open Space Institute
(formerly Open Space Action Committee)
was founded in 1963.
It is a non-profit, tax-exempt corporation
supported by foundation grants
and individual contributions.
Its publications and field programs
are undertaken by a professional staff.



*On the cover:
On a clear day in Palos
Verdes Estates you can
almost see forever, especially
from the terrace of Gaybert
Little's hillside home when
the sun is plunging toward
the Pacific. Art director
Charles Curtis was there on
such an afternoon to take the
photograph. The Palos Verdes
story begins on page six.
(The back cover: surfing off
Central California, also by
Curtis.)*



*On pages 14 through 21:
Whose reservoir of childhood
memories doesn't include a
recollection or two of
tramping the rails, and of the
rails stretching down the
right-of-way into the hot,
dancing distance? Artist
Joseph A. Smith recaptures
such memories in a series of
illustrations that also show
how old rights-of-way can
now become pathways to the
out-of-doors.*



*On pages 29 through 33:
Hans Spiegel is chairman of
the urban planning division
of the Columbia University
School of Architecture. He—
and four colleagues—have
some fairly definitive ideas
about the uses of vacant lots.
The photos of Spiegel and his
friends are by Heka Davis
(absent, but on assignment,
when our distaff contributors
posed for the picture on the
preceding page).*

OPEN SPACE ACTION

Vol. 1. No. 4 / May-June 1969

Publisher:
Charles E. Little

Editor:
John G. Mitchell

Associate Editor:
Nancy Montgomery

Art Director:
Charles Curtis

Commentary 4
by Charles E. Little

Hands off our parklands (the cover) 6
In the beginning, Palos Verdes had Olmsted, open space and a land-use law as strong as the Constitution. After 35 years, the law and the land still hang together — despite repeated attempts to overturn both.

The rationale is 0 12
With due respect to the dog, man's best friend may soon be identified by a different kind of bark.

Through the looking-glass 14
Across the nation, railroads are dying and canals grow swollen with weeds as enterprisers find better ways to move man and his necessities from A to B. Now, the real challenge is to find for these old rights-of-way new uses to expedite a growing need for outdoor recreation. A special report, illustrated by Joseph A. Smith.

Lots about lots 22
Bombed-out by blight, the inner cities are uncovering a legacy of vacant lots. But as the lots proliferate, so do the modi operandi of those who would turn these lots into parklets. With a memo from New York and a P.S. from Philadelphia, a survey of points west and an interview with planners, Open Space Action examines some of the problems and promises of this urban phenomenon.

Where life-style counts, who needs nature? 34
by Alan Gussow

Inner Space 38

A review: Pedaling the ecology bike 40

Letters to the Editor, news items and requests for permission to quote or reprint articles appearing in this magazine should be addressed to the Publications Department, Open Space Institute, 145 East 52nd Street, New York, N. Y. 10022. *Open Space Action* is published six times annually. Subscription rate: \$7.50 per year.

Hands off our parklands

The Palos Verdes hills come out of the sea in a series of benches, one above the other up to 1,400 feet, as if time and the primordial tides had fashioned here an amphitheater where men could sit and watch the sun go down into the Pacific. When the hills grow dark, pine and eucalyptus thrust their darker silhouettes against the flood-lit cities of Redondo Beach and Torrance and Los Angeles itself, all there below, lumped as one in one great mega-watt bowl.

Nature alone did not set these hills apart, so different from the land below. Men did, giving some permanence to Nature through gestalt planning and protective restrictions on the uses of open space. "Ever since people began to congregate in cities," a Palos Verdian noted in 1923, "the problem of touching elbows has been with us." And on that note, a new city was built in the hills, a parkland community where 13,000 residents enjoy the view without touching elbows. *Palos Verdes*. Even today, the name works. Palos Verdes. Green trees.

Most U.S. cities these days search desperately for "urban amenities." The City of Palos Verdes Estates is an amenity—an unique one. There are, for example, except in the older sections, no overhead utility lines; in fact, without the aid of signs, one can tell exactly where the city ends and surrounding communities begin: the trees of Palos Verdes give way to telephone poles. The streets are well paved, yet there are few sidewalks. "Who needs 'em?" says an old-timer. "There's concrete enough in the streets." Still, people do walk—on trails.

But, more than anything else, Palos Verdes Estates is unique because of its open spaces. A full quarter of the city's 3,015 acres is permanently protected as parkland—and has been, ever since deed restrictions were imposed on the land in 1923. Much of it runs along the unbuildable slopes of the

benches and from the edge of the seaside bluffs down to mean high tide. Narrow greenways intertwine the city's neighborhoods. "The people of this city," says Planning Commissioner Paul Peppard, "want the parkland left the way it is. They don't want it formal or manicured—or built on."

As in other communities, however, what the people want does not necessarily reflect the desires of special interests. Indeed, the parkland of Palos Verdes Estates has been threatened with encroachments repeatedly over the years, even by the City itself. "We have all this free, open land," says Dr. Peppard. "From time to time, someone comes along and tries to grab on to a piece of it." So far, no one has succeeded, and in that story is the story of the hills themselves.

Shopping for shade

By right of a Spanish land grant, the Sepulvedas came first to the Palos Verdes peninsula and ranged their herds across the grassy slopes. The Anglos followed, but the time for cattle was running out. Down in the bowl, Los Angeles was growing boisterous, and in 1913 the bankers moved in.

They called it the "Palos Verdes Project." Garden suburbs were to cover some 16,000 acres, almost the entire peninsula. The financing was big, too: the Bank of America. And to insure the best design available, the bankers retained city planning consultant Charles H. Cheney and the world-famous landscape architecture firm of Frederick Law Olmsted, Jr., son of the greatest park designer of all time.

Cheney, Olmsted and the developers laid out their first subdivisions in irregular lots behind the high bluffs at the western end of the peninsula, overlooking Los Angeles and Santa Monica Bay. This—and the smaller, inland community of Miraleste—would be known as Palos Verdes Estates.



To enhance the greenery, Olmsted established a nursery at Lunada Bay and freely dispensed his expert advice to developers shopping for shade trees and ornamentals. And he studied and re-studied the slopes, making sure, before the builders moved in, that each homesite was right for the contours beneath it. (Cutting and filling of slopes to make building pads is now—and always has been—prohibited in Palos Verdes. As a result, says one builder, "We've yet to lose a house in a mudslide.")

Great caution was meanwhile exercised on paper, in the offices of the Bank of America. As trustee of the property, the bank drafted a Trust Indenture, a sort of constitution under which the new community of Palos Verdes Estates would be developed. The indenture spelled out protective restrictions to "preserve the fine views of ocean, mountains, and park" and to "increase with the years the wonderful natural beauty of the property." Though some restrictions were—and are—tailored to specific lots because of their size or location, most apply throughout the

community, establishing setback requirements, prohibiting billboards and imposing on builders a system of architectural review. Such reviews are administered by the Palos Verdes Estates Homes Association and Art Jury. What's more, the indenture deeded to the care of the Homes Association 800 acres of parkland, on the condition that it be devoted to public use in perpetuity.

For Palos Verdes, perpetuity almost ended in the market disaster of 1929. The trouble, as it so often is, was taxes.

Deficit operations

As an unincorporated community, Palos Verdes at the time fell within the jurisdiction of Los Angeles County. The Homes Association, though chartered as a non-profit corporation, was liable therefore under California law to pay full taxes on its parkland. Before the Crash, this presented no great problem. The Association was empowered to levy an annual assessment on all privately-owned lots in The Estates. With these funds, it managed for a while to cover the cost of maintain-

ing 800 acres, including operation of a golf course and swimming club. If there wasn't enough left over to pay the realty taxes, the Bank of America and its sales agents were willing to make up the deficit. Then came the Crash. Property sales slumped. Soon, even the Bank of America was unable to subsidize the association. And in one year alone, more than 300 owners of building sites defaulted on their assessments. "By 1938," retired Judge Donald Armstrong writes in his *History of Palos Verdes Estates*, "the Homes Association owed the State of California for taxes on the parklands, shore line, Golf Club and Swimming Club approximately \$50,000. Needless to say, the Board of Directors of the Homes Association and the residents became exercised for fear the State might sell these properties at tax sale, and the community would lose its most valuable asset." According to another local historian, the Los Angeles County auditor at one point demanded that the parklands be surrendered forthwith.

The people of Palos Verdes Estates were not about to surrender their

CHARLES CURTIS



Little: The trick is to 'keep everlastingly at it.'

parkland. In December, 1939, in a special election, they voted overwhelmingly to incorporate the Estates as a city of the sixth class. Six months later, incorporation was official, the State agreed to forgive the back taxes, and the association formally transferred to the new city its 800 acres of parkland—now tax-exempt. The grant deed stipulated:

That said realty (the parkland) is to be used and administered forever for park and/or recreation purposes only.

And the deed went on to state unequivocally that a breach of that provision would automatically cause the parkland to revert to the Homes Association. Few Palos Verdians at the time could even begin to guess how important these restrictions might turn out to be—or how soon they would be tested.

They were tested soon enough.

'Give it a whirl'

In 1948, the Palos Verdes Street Department, annoyed by the inconvenience of having to park its maintenance equipment in an alley behind city hall, cavalierly announced plans

to construct a maintenance yard consisting of two 1,600-square-foot sheds. The site selected: a nice secluded corner of parkland near the city golf course. Curiously, dissent by the City Council was almost inaudible.

But one voice came through loud and clear. It was the voice of Ray C. Roberts, a resident and member of the Homes Association. Roberts promptly filed an action against the City in Superior Court, and his attorney, in a letter to the municipality's law office, argued: "Use for erection of buildings violates the purposes for which this property was deeded to the city." The recipient of that letter was none other than Donald Armstrong, then the city attorney of Palos Verdes Estates and later its historian. "The city fathers were determined," Judge Armstrong recalls. "They insisted the yard would be 'incidental' to the maintenance of the parkland. I said, 'Look, you guys, you're all wrong. But if you want it, give it a whirl.' And they did."

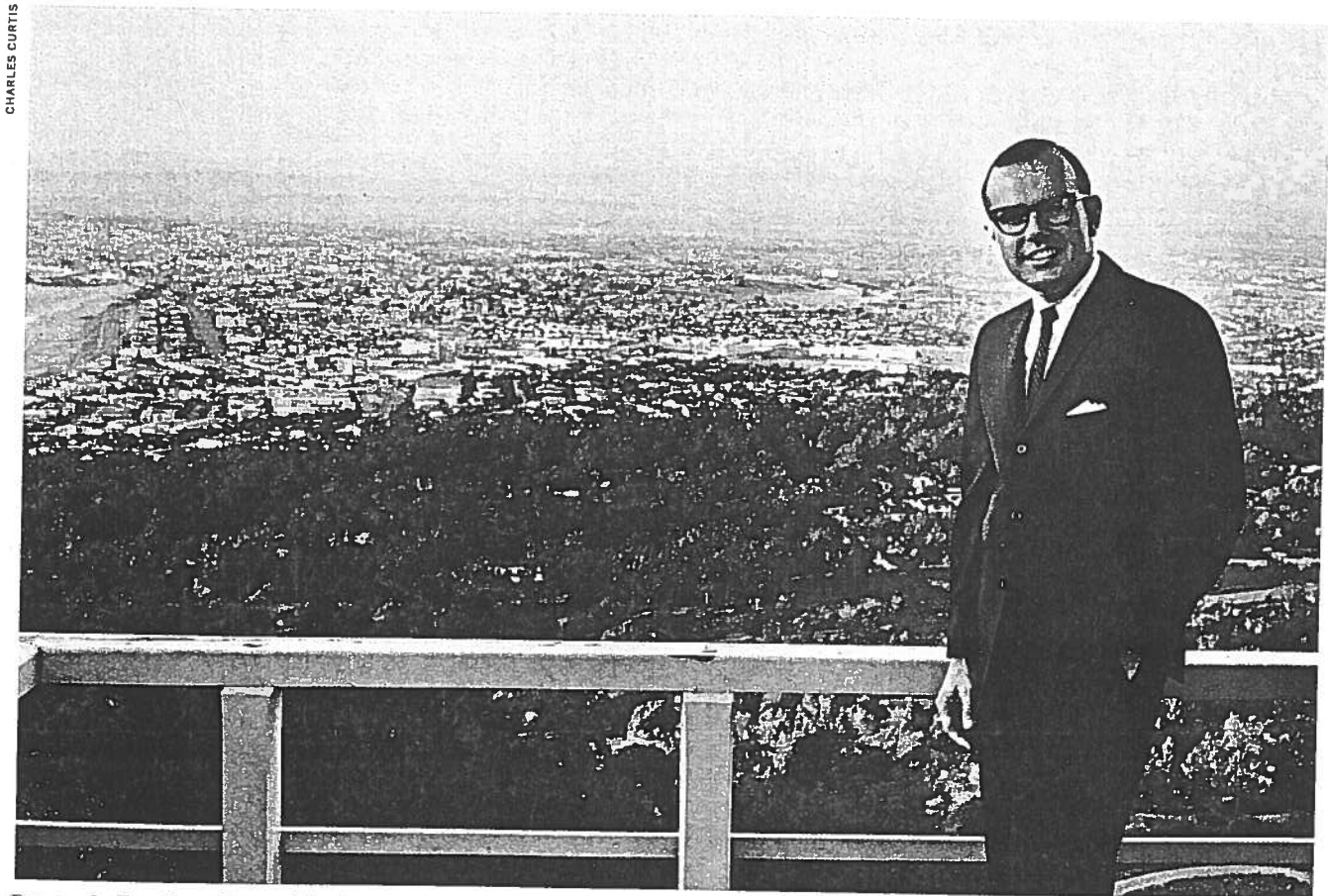
The first whirl ended in a split decision. In effect, Superior Court

Judge Caryl M. Sheldon ruled that the city did have a right to construct a maintenance yard on parkland for vehicles and equipment "used exclusively in connection with the care, maintenance and upkeep of the defendant city's parks and park property." But the judge also found that the city had no right whatsoever to store or maintain in such a yard vehicles and equipment used for other purposes, even incidentally.

Roberts and the City both appealed. The Roberts appeal sought to strike down Judge Sheldon's first ruling that a yard for park maintenance was a proper use of parkland. The appeal by Palos Verdes sought to overturn the Judge's corollary: that storage of equipment used incidentally in the maintenance of property other than parkland would not be proper.

Kelly's caper

In weighing the Roberts' argument, the District Court of Appeal found: "It is well settled that where a grant deed is for a specified, limited and definite purpose, the subject of the grant cannot be used for another



CHARLES CURTIS

Peppard: Far from the maddening mega-watt bowl.



CHARLES CURTIS

Brandel and Leeper: Upholding the PV constitution.

and different purpose." And the court then went on to cite a number of precedents, including the case of T. L. Kelly vs. The Town of Hayward (Calif.), argued, ironically enough, the very same year that protective restrictions were imposed on the future uses of Palos Verdes parkland (see story, page 11).

The earlier Hayward decision and its legal citations came to weigh heavily in the deliberations of the appellate justices assigned to the case of Roberts vs. Palos Verdes. They were not, for example, particularly impressed by the City's attempt to add the word "incidental" to the restrictive provisions governing the use of parkland. "What a city council or board of trustees would like to do under whatever guise may be proposed," the court observed, "is not the test as to the validity of the proposal. The terms of the deed alone are controlling." And in an opinion that reversed the lower court altogether, and restricted the City of Palos Verdes even more tightly, the appellate court ruled: "There is nothing in the deed (from the Bank of America to the Homes Association to the City) which suggests that the property in question may be used 'for park purposes' except for the par-

ticular park dedicated and described in the deed." In practical terms, therefore, a yard located where the Street Department wanted to put one could be used only for the maintenance of the city golf course. For a while, that ended the yard episode.

But it didn't end other potential encroachments. In 1950, a resident of The Estates petitioned the City Council for permission to erect a building on dedicated parkland. Apparently, there was a temporary lapse of memories, for City Attorney Armstrong, who had warned council once before, now had to do it again. "We have gone through this in the Roberts case," advised Armstrong, "and I am convinced that if the request were granted we would be violating the conditions of the deed by which the Homes Association originally acquired the property. I think the council would be making a serious mistake." Council concurred.

A sacred trust

Yes, Palos Verdes had indeed been through the Roberts case (and the Hayward case, too, for that matter), but it hadn't solved the problem of where to put the city yard. In 1960, Public Works Director Fred Erwin submitted a proposal to the mayor

and council. "A city yard for this community," he wrote, "must be located somewhere in this park system." The Planning Commission disagreed. It was "opposed to the diversion of parkland for other than traditional public use," the commission said of Erwin's proposal. "It considers the preservation of parkland a sacred trust that must not be broken in the name of expediency, urging of special interest, or a showing of need." If the deed restrictions were amended in this case, the commission added, "such action would establish a dangerous precedent that would open the door to a multitude of unjustifiable, troublesome demands."

The latest demand upon Palos Verdes' parkland has proved particularly troublesome. Not far from the site of the disputed, and presumably now defunct, yard, the Community Arts Association of Palos Verdes this Spring sought permission to establish a cultural center, preempting some four acres of parkland with 15 classrooms, two art galleries, an auditorium and Greek theater. "Their tack," says Planning Commissioner Peppard, "was that the land was going to waste. Some of the arts people feel open space isn't a good enough use." Still, the question was a difficult one. "Is art recreation?" Commission Chairman Ann Leeper asked herself repeatedly. "I'm not sure. Children need art. But they also need places where nothing's been improved."

Culture coming up against conservation was especially painful for some decision-makers at City Hall. "They're a good bunch," said one commissioner after an extended encounter with Arts Association leaders. "I wish they were nasty so we could simply say 'no.'" As it turned out, the commission *did* say 'no' — politely but firmly, and with a pledge to assist the Arts Association find an alternate non-park site.

Start from scratch

The Palos Verdes experience is an instructive one. Its principal lesson, of course, is that open spaces can be only as permanent and unassailable as the legal restrictions placed on their use. It also demonstrates the importance of a homes association as the enforcing agency for such restrictions, particularly in the time gap between the beginning of a new community and its incorporation. "When you start from scratch as we

did," says Mrs. Patricia H. Gribben, manager of the Palos Verdes Homes Association, "you can accomplish wonders. You just keep enforcing the restrictions on the land. They run with the land and, before long, they become the law of the land." And Association President Harry Brandel adds: "These restrictions are stronger than the U.S. Constitution. The way they're set up, they can hardly be amended." Amendments require approval of two-thirds of the property-owners in Palos Verdes—or 2,563 votes by the latest count.

Brandel's predecessor at the helm of the homes association was Gaybert Little, a retired advertising executive and dedicated champion of the city's parklands. This Spring, on one of those clear days you can see to Catalina Island and beyond, Little walked along the edge of the Pacific escarpment near Bluff Cove, explaining the secrets of his community's success. "In all these

Gribben: When the law runs with the land, you accomplish wonders.



CHARLES CURTIS

years," he said, "we haven't lost a single foot of the parkland we started with. Not many other communities can say the same." He turned, then, and waved his arm toward the steep, green slopes inland. "Other places," he said, "they'd have houses top to bottom and side to side. They'd just turn the bulldozers loose. But not here. Here, they started with a dream and it was beautiful."

What Little didn't say—but could have—might well be summed up in an old advertising aphorism: "Keep everlastingly at it." The success of Palos Verdes lies not only in its law and in its land but in the perseverance of its residents. So far, their devotion to untrammelled parklands has spanned two generations through depression and through a population inundation that hit the Los Angeles basin like no other metropolitan area in the world. If Palos Verdes and its people can survive that kind of test, it is a good bet that the good green dream, like the seaward view, can go on forever. ■

Wayward Hayward

The case of T. L. Kelly vs. The Town of Hayward bears a striking resemblance to Roberts vs. Palos Verdes. It originated in plaintiff Kelly's attempt to enjoin the Town of Hayward from erecting a new town hall and jail on a 2.75-acre plaza, dedicated to the town as public open space in the late 1800s and thereafter planted with trees.

Kelly argued that preempting 22,500 square feet of the plaza, as the town intended to use it, would be contrary to the public use stipulated in the original grant deed. Hayward attorneys countered that plaza per se implies a public square, not a park, and that a town hall is a proper use of a public square. In the lower court, the judge found for the defendant, Hayward.

The appellate court found otherwise. "Leaving this land unoccupied by any edifice for 45 years would be an almost conclusive argument upon the question," the court noted. "If the present board (Hayward officials) has discretion to utilize a portion of this block for town buildings,

some future board might claim that under their jurisdiction a corporation yard or rock pile for the employment of prisoners, and other very useful adjuncts to the administration of the economic affairs of the town, might be located thereupon, until the entire space was fully so occupied."

The court ruling on the Hayward appeal then went on to quote one Chief Justice Thayer of the Oregon Supreme Court: "Open plazas... especially in large cities, are highly important. They afford healthful and pleasant resorts... and are in fact the only places where a large class of the community are able to go and enjoy the blessings and comforts of shade and pure air; and any attempt on the part of public officials to appropriate them as a site for public buildings... would be a cruel effort to subvert a humane scheme..."

With that stinging critique on record, the appellate court reversed the earlier judgment against Mr. T. L. Kelly of Hayward and neatly summed up with a well-turned lecture on the economics of open space preservation. "Respondents," said the court, "state that if this plaza may not be utilized for the town hall, the taxpayers will be burdened with the expense of acquiring other

land as a site for the hall; but should the Town of Hayward become a city, as it no doubt will, its need of parks and open spaces will become more and more apparent with increasing population, and the expense of then acquiring the same from private owners will be very much greater than the amount today involved in the purchase of a site for a town hall..."

Postscript: Hayward soon enough did become a city—and also soon forgot the lessons it had learned reluctantly in the appellate court. Today, the Hayward Central Library occupies a half-acre of the disputed plaza. The building was erected without opposition or complaint. No T. L. Kellys emerged to defend the land from encroachment.

But, then, Hayward isn't Palos Verdes. In fact, Hayward isn't much like any other city in America. For a population of 91,000, the City maintains only 170 acres of parkland. Even if one were to throw in some 300 acres of school recreation space, this still leaves Hayward with less than five acres of public open space per thousand of population.