

July 1, 1954

by President Harold C. Case of Speare (61 Montvale road) chartered as a University in president of the Newton Sav- (Continued on Page 2)

# ALDERMEN OBJECT TO SALE OF 23-ACRE C. H. TRACT OF LAND

## Appeal Board Approves Plea for 3 Apartments

After three attempts at gaining the extra apartments were turned down, the Westbrook Company which operates a large apartment block at the corner of Wesley, Church and Centre streets, Newton — was granted permission last week by the Board of Appeals to construct additional basement dwelling units.

In its decision, the Board of Appeals pointed out that basement apartments are provided in the building code for buildings of that type of construction, and a similar apartment house nearby does have the basement units.

"However," the Board of Appeals report stated, "since these apartments were built in 1945, the lot which they occupy, has been rezoned to Residence D, where apartment houses are not allowed. Therefore the building commissioner had no choice but to deny the aforesaid applications."

At a hearing the morning of June 8, the Westbrook application was opposed by several neighbors, who based their objections on the increased traffic the apartments would cause.

"Of course," noted the board, "the same objection would apply to all new families moving into Newton. While we realize that an increase in population increases the traffic, we think the traffic problem should be solved in some way other than by excluding an increase in population."

"On the evidence presented to

of applicant's interest in its private property to deny these applications."

The board pointed out that while their action was contrary to a recent vote by the aldermen, the approval was not a reversal of the aldermen's decision since the appeal was made from a ruling by the building commissioner.

"Whatever reasons the aldermen may have had for denying these applications," the Board of Appeals stated, "we are required by the General Laws of Massachusetts to decide the applications on the facts before us, and on these facts we have no question as to the result."

The board's report cited a number of Massachusetts court cases. One decision was quoted as "Where the application of the by-laws to a particular parcel of the land together with the attending peculiar circumstances demonstrates that the imposition of the zoning regulation in such an instance has no real or substantial relation to the public safety, public health, or public welfare but would amount to an unreasonable and oppressive deprivation of the owner's interest in his private property, then the application of the regulation has been struck down."

The Board of Aldermen have turned down a pair of petitions by the Westbrook Company this year for the basement apartments. The first petition sought a change of zone, and the second asked a variance of the zoning ordinances.



**INTERNS, RESIDENTS GRADUATE** at Newton-Wellesley Hospital. Pictured above at graduation exercises held Monday evening at 8:30 o'clock in Usen Auditorium at Newton-Wellesley Hospital, are members of the hospital's intern and resident staff. Front row, left to right: Dr. Salvador Fernandes, resident in pathology; Dr. D. Glyndwr Millard, house officer; Dr. Salvatore Pellagornio, house officer; Dr. Philip Bliner, house officer, and Dr. Melvin M. Kayce, house officer. Rear row, left to right: Dr. George Pothier, resident in medicine; Dr. Lillian Luksis, resident in radiology; Dr. Richard Marks, resident in surgery, and Dr. Frederick Davies, resident in surgery.

## Temple Seeks To Build New Comm. Center

Opposition to the sale of a 23-acre tract of Metropolitan District Commission-owned land in Chestnut Hill to a Roxbury temple for a community center was voiced in a resolution adopted Monday night by the Newton Board of Aldermen.

The resolution, offered by Alderman Lawrence B. Damon, urged the MDC to hold the land "for development and the continuing use as recreational area for park purposes."

The resolution was voted by a 15-3 vote after Alderman Damon reported the MDC was scheduled to vote tonight (Thursday) on the sale to Temple Mishkan Tefila of Roxbury.

The MDC owns 51 acres in all in the west side of Hammond Pond parkway, but the temple is seeking to purchase only 23 acres of this. It wants to build the community center here because nearly half the congregation now resides in the Newton-Brookline area.

Alderman Damon's resolution was discussed briefly by the aldermen before they thrashed out the details of it in executive, closed-door session.

A strong plea for the sale was made by Hirsch Sharf, who said that allowing the land to be used by a religious group could not possibly do any harm along the parkway.

"The tendency of this board, as well as the Planning Board,"

— ALDERMEN —  
(Continued on Page 2)

Savings Bank with offices in Newton, Wellesley and Needham. He has been active in city, state and national banking organizations and has served as President of the Newton Bankers Association, the Massachusetts Savings Bank Life Insurance Council, and the Savings and Mortgage Division of the American Bankers Association. He has been a frequent contributor to banking periodicals and has addressed bankers' associations in a number of states.

Mr. Perry was Grand Master of Masons in Massachusetts from 1938 to 1940, was President of the State Association of Y.M.C.A. for Massachusetts and Rhode Island, in 1936 and 1937; and Chairman of the Trustees of the Belmont Methodist Church for 25 years. He resides at 18 Holt street, Belmont and has served on the Belmont School Committee, the Harvard Law School Council, and as President of the Belmont Rotary Club and a Director of the Newton Rotary Club of which he is now a member.

## Aldermen-

*(Continued from Page 1)*

argued William R. Mattson, "has been to maintain property owned by the MDC and the city for recreational or park purposes." Stating the vote would be "not antagonistic to any group," he urged passage of the resolution.

Four items were listed in the resolution as follows:

"Now, therefore, be it resolved that the Board of Aldermen of the City of Newton hereby —

"Declares its belief that this

area of approximately 51 acres should be held for and voted solely for park purposes and the recreational use of the general public;

"Request that the MDC continue to hold and develop this property for such public purposes and use;

"Request that in the event the sale of MDC land in Newton is proposed by the MDC at any time, the MDC shall give written notice thereof to the Board of Aldermen through the City Clerk and a first refusal to the City of Newton to purchase such property for a period of 30 days at the offered price.

"Direct the city clerk to mail forthwith to the MDC . . . a copy of the foregoing resolution."

## Permit-

*(Continued from Page 1)*

strongly against the permit, declaring, "There seems no sacred spot in which a tower must go for valuation purposes. I do not go along with the idea that valuations are the only thing we want in this city."

### Public Hearing

At a public hearing on the DuMont petition last week, Atty. Harris A. Reynolds explained that the tower would cost nearly a million dollars. It emits "no smoke, noise or offensive odors" and would not require any services from the city other than water and sewer installation.

The assessed value of the tower would be greater than any other business property which could be attracted to the site, he continued, giving the city "a substantial windfall over the years."

Atty. Reynolds offered to let the Police Department attach one of its radio antennae on the tower, eliminating a number of weak reception areas throughout the city. DuMont, he stated,

# MDC May Act Today On Selling C.H. Land

A vote is expected either today (Thursday) or next Thursday by the Metropolitan District Commission on the sale of 23 acres of land off Hammond Pond parkway, Chestnut Hill, to Temple Mishkan Tefila for the site of a school and community center.

The possible sale was discussed at last Thursday's meeting of the MDC commissioners, but the matter was tabled without a decision. The commissioners included in their lengthy discussion a resolution adopted by the Board of Aldermen last week opposing the sale. The aldermen recommended keeping the land for recreational purposes.

The commissioners recently voted 3-2 to sell the Chestnut Hill tract to the Temple, but withdrew their decision in favor of holding a public hearing. The only official representative of Newton at the hearing was Al-

derman Lawrence B. Damon, who later presented the resolution against the sale.

After the hearing, the commissioners voted to reserve the land for the Temple, but did not promise that the sale would go through. Reserving the land meant that if the land was to be sold, the Temple would have the first chance to buy.

No price has been placed as yet on the 23-acre tract. An appraisal of the land is underway, and the sale tag will be placed on the property when the appraisal is completed. Then the Temple will have the opportunity to accept the land at the stated price or drop its option.

The land sought by the Temple is part of a 51-acre tract which has been under MDC control for 40 years. Although several plans have been for-

warded for its improvement, the property has not been developed.

The resolution asking the MDC to retain the land for park purposes was passed by the aldermen 15-3 after arguments on both sides of the move were heard in executive session.

Alderman Damon's resolution, passed with only minor changes, declared it was the board's "belief that this area of approximately 51 acres should be held for and voted solely for park purposes and the recreational use of the general public."

The aldermen requested that, when sale of MDC land in Newton is contemplated, the city should have written notice beforehand and should also have "a first refusal . . . to purchase such property for a period of 30 days at the offered price."

July 15

## No Decision By MDC Yet, On C.H. Sale

The Metropolitan District Commission again took no action Thursday on the proposed sale of a 23-acre lot of land off Hammond Park parkway, Chestnut Hill, to Temple Mishkan Tefila of Roxbury as a site for its new school and community center.

For the second week in succession, the five MDC commissioners discussed the possible sale, but withheld any vote until an appraisal of the property is completed. The land is part of a 51-acre tract which has been MDC property for the past 40 years.

The sale has been opposed by the Newton Board of Aldermen, which passed a resolution calling for the MDC to keep control of the property for park and recreation purposes. The board also requested that the city be given first choice when the sale of any MDC land in Newton is contemplated.

One of the MDC commissioners—Milton Cook of Newton Centre—has been a strong advocate of letting the temple purchase the land, "rather than having it continue to lie dormant." He predicted that a final decision would be made at

— MDC —

(Continued on Page 2)

## MDC-

(Continued from Page 1)

today's (Thursday) meeting of the commissioners.

The commissioners recently voted 3 - 2 to approve the sale, but the decision was withdrawn so a public hearing could be held. The only representative of the city appearing at that hearing was Alderman Lawrence B. Damon, who later framed the resolution against the sale.

# Vote to Sell MDC Tract To Temple

Sale of land off Hammond Pond parkway, Chestnut Hill, to Temple Mishkan Tefila of Roxbury — vigorously opposed by the Newton Board of Aldermen — was voted last Thursday by the Metropolitan District Commission on a 3-2 split.

The size of the lot to be sold will not be decided until today's (Thursday) meeting of the commissioners. Last week's vote was to sell either 14 or 23 acres to the temple, to be used as a site for its community center and religious school.

A sub-committee composed of three of the five MDC commissioners met this week with temple representatives to discuss the two available plots of land, and the temple's choice will be reported at today's meeting.

The price of the land was set at \$400 an acre following a valuation survey by a state agency. A decision on selling the property was postponed for two weeks as the commissioners waited for the valuation.

The vote to sell included a restriction that the land could be used only for religious, educational or recreational purposes, thus barring resale of

— MDC —

(Continued on Page 2)



August 5

## Files Bill to Reclaim Land Near Parkway

Senator Richard H. Lee of Newton today filed a bill for reclaiming certain land beside the Hammond Pond Parkway for public purposes. This is not the area recently voted to be sold to Temple Mishkan Tefila. It consists of nearly forty acres of woodland on both sides of the parkway, including the westerly shore of Hammond Pond. This was quietly sold to real estate operators a few years ago without public hearing, at prices averaging under \$500. per acre. It was thereupon zoned for residential use by the City of Newton but has never been built upon, the operators apparently holding out for business uses.

—BILL—

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## Bill-

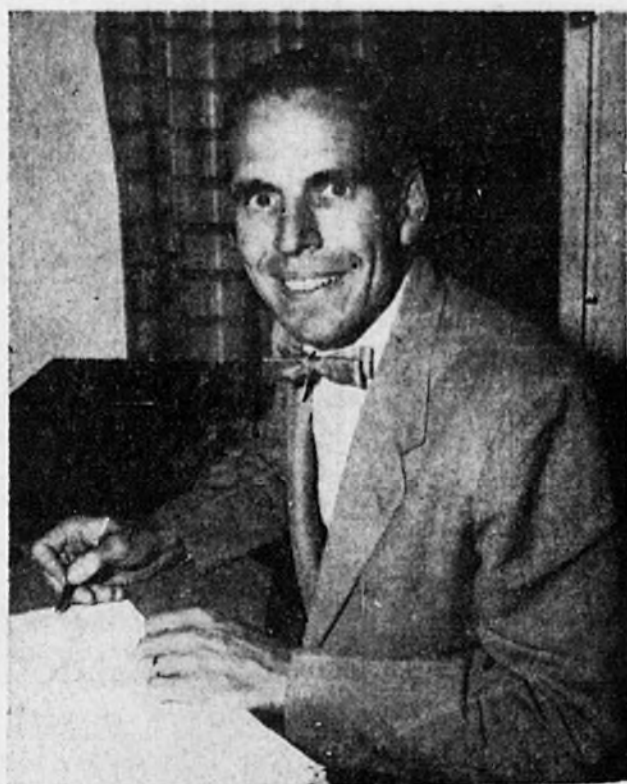
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The tragedy of the situation is that these tracts include the best and most scenic part of the former MDC land in that area, which should have been reserved for public use. It would give the public access to the shore of the pond, and make an excellent picnic area.

This bill proposes that the operators be repaid the purchase price plus taxes and other expenditures made on the land with interest. This would avoid their reaping a private profit from the purchase of land which should have been retained for public use.

August 12

# HEARING TO STOP SALE OF LAND BY THE MDC TO TEMPLE MISHKAN TEFILA SCHEDULED FOR TODAY



**WILLIAM FALCONER**, Chairman of the Newton Chapter, American Red Cross announces the appointment of William J. Robinson of Newtonville as Chairman of the Blood Program, succeeding Maxwell P. Gaddis. Mr. Robinson is purchasing agent of Ultrasonic Corporation in Cambridge. He was formerly in a similar position with the New England Medical Center, an affiliation of the Boston Dispensary, Boston Floating Hospital, New England Center Hospital of Tufts College. Active in Newton Community affairs, Mrs. Robinson is President of the Newtonville Improvement Association and has served in Red Feather and Red Cross Fund Drives.

## Voting Booth Changes Approved Monday Night

Although some opposition was expressed against the proposed new sites for polling places, the Board of Aldermen at its meeting Monday night voted the following changes:

Ward 2, Precincts 1 and 5, from the auto sales room at 863 Washington street, to Bram's of Tire Shop, 252 Walnut street, which Philip Bram, the propri-

## Rep. George Rawson On Recess Commission

Speaker Charles Gibbons of the House of Representatives has appointed Representative George E. Rawson to the Re-

## City Takes Action

Contend MDC Had No Right To Sell Without Consulting The City's Park Commission

### INJUNCTION SOUGHT

The city, and its newly appointed Board of Park Commissioners, have brought suit against the MDC and Temple Tefila of Roxbury in a move to stop the sale of MDC land in Chestnut Hill.

The city claims the MDC had no right to sell the land without consulting the Park Commission; which was appointed nine days earlier than the date of the sale, or July 20. The deed has been delivered to the state treasurer, preparatory to being turned over to temple authorities on receipt of payment.

MDC Commissioner Milton Cook of Newton Centre reports that summonses were sent to the MDC and distributed to the five commissioners last Thursday. A hearing on a temporary injunction will be held today (Thursday) in Suffolk Superior Court.

The action is "an attempt to establish the right of the Park Commission to have a say" in the land transfer, Mayor Howard Whitmore, Jr., pointed out. The deed to the land from the MDC must have the approval of the Park Commission or the approval of the governor and his Council, the mayor said.

The Park Commission is not legally in office until next May, Commissioner Cook declared. City General Laws, Chapter 45, Section 2, Cook said that the mayor of a city may appoint a board of park commissioners for one, two, three, four and five years, to hold office from the May following the appointment. If there is no commission the sale cannot be stopped.

"It is no harder for a camel to get through the eye of a needle than it is for the temple to get some land for culture, recreation, education and spiritual needs," Mr. Cook said. He asserted that although the temple is in Roxbury, "the majority of its members are in Newton."

"It's my theory that those who say they want the land for recreation are not very sincere."

its members are in Newton.

"It's my theory that those who say they want the land for recreation are not very sincere," Cook declared.

He claims that in 1950, then Mayor Theodore R. Lockwood, "with the consent of his 'cabinet,' many of whom are still in office," encouraged construction of a ranch type development on land purchased on the Hammond Pond Parkway from the MDC. Later the land was zoned against such a development, Cook pointed out.

City Solicitor Matt B. Jones filed the suit and Attorney Gen-

—LAND—

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gram is the ease which blood can be given by the donor.

## Program-

(Continued from Page 1)

What happens when the balance is off? Sugar stays in the blood and is lost through the kidneys. The body needs a constant supply of energy but cannot use the blood sugar without the aid of insulin so body tissues are broken down. This is the situation that leads to serious consequences. But the person with diabetes who keeps control of this balance can be as healthy as anyone else.

## Land-

(Continued from Page 1)

eral Fingold's office will conduct the defense.

Mayor Whitmore appointed the commissioners after the Al-

dermen had voted 15-3 asking the commission to retain the land. When they realized that the aldermen's request was to be ignored by a 3-2 vote of the MDC commissioners, the Park Commission was appointed.

Appointed to the Park Commission at that time were William E. Hopkins, chairman; William B. Marquis, Karl H. Brock, Stanley W. Merrill and Joseph C. Skinner.

Dr. and Mrs. Francis Kenney of 15 Lockwood road, West Newton, left for France, via Pan American Airways, last Sunday, for a combination business and pleasure trip.

Mr. and Mrs. T. Arthur Gibbs and children, Robert and Meinda of Brimingham, Michigan, are visiting Mrs. Gibbs' parents, Mr. and Mrs. M. E. Beardsley of 108 Crescent street Auburndale.



# Hearing On Land Sale To Temple Gets Under Way

In Suffolk Superior Court in Boston, the hearing on the controversy between Newton and the Metropolitan District Commission relative to the sale of MDC land on Hammond Pond parkway, opened Tuesday afternoon with Judge Daniel O'Connell presiding over the equity session.

Newton's case is being presented by City Solicitor Matt B. Jones, who has asked that the court invalidate the sale of the 23-acre tract to Temple Mishkan Taffila of Roxbury. The city solicitor claims that the sale cannot be made without the approval of the Park Commissioners who were appointed July 20.

The Temple and the MDC claim that the park commissioners cannot legally take office until next May, and therefore do not have to approve the sale. Mr. Jones contends that the commissioners' appointments work retroactively so that their appointments date from last May. A commissioner with a one year appointment will have to be reappointed next May.

"It is morally offensive for the city of Newton to attempt to obstruct construction of religious building," Judge J. J. Spiegel, who is acting for the Temple, declared. "The statute permitting a Park Commission in each city has been in existence since 1882 and yet on the night of July 19 the city of Newton suddenly decided it needed a park commission," continued Judge Spiegel.

He also declared that this was an "unprecedented attempt to circumvent the laws of the Commonwealth." He termed Newton's action a "jet propelled desire to halt sale to the Temple."

Mr. Jones stated that "any attempt to read into this case a dislike of the Temple is entirely in error. We believe that Newton should have a say in the transfer of land within its borders."

## New Motor Laws

### Law Requires License Be Shown

Changes in the law, which requires motorists to show their drivers' licenses upon request of persons injured or the person in charge of the property damaged, became effective Monday.

Calling attention to the changes, Registrar of Motor Vehicles Rudolph King said any operator who "knowingly" collides with or causes injury to any person or property, must exhibit his license "plainly" upon such a request.

### Blind Pedestrian Protected by Law

"Whenever a totally or partially blind pedestrian, guided by a guide dog or carrying in a raised or extended position a cane or walking stick which is white in color or white tipped with red, crosses or attempts to cross a way, the driver of every vehicle approaching the place where such pedestrian is crossing or attempting to cross shall bring his vehicle to a full stop, and before proceeding shall take such precautions as may be necessary to avoid injuring such pedestrian."

Registrar of Motor Vehicles Rudolph F. King states that many motorists are reported for disobeying this law. While there are few blind pedestrians, they are entitled to full protection of the motor vehicle laws and the Registrar appeals to the

## Registration Dates For Nov.-Election Named

Registration for the primaries closed last Friday night and no more registration of new voters will be possible until Wednesday, September 15, according to City Clerk Monte Basbas.

At that time new voters may register for the November election at City Hall Monday through Friday from 8:30 a.m. until 5:00 p.m., through October 1.

In addition, according to Mr. Basbas, new voters may also register on the following dates and places:

Monday, September 27, Wards 1 and 7, Underwood School, Vernon street, from 7:00 p.m. to 9:00 p.m.

Tuesday, September 28, Ward 2, Bram's Battery and Tire Service store, 252 Walnut street, Newtonville, from 7:00 p.m. to 9:00 p.m.

Tuesday, September 28, Ward 3, Davis School, 429 Waltham street, 7:00 p.m. to 9:00 p.m.

Wednesday, September 29, Ward 4, Auburndale Branch Library, 375 Auburn street, 7:00 p.m. to 9:00 p.m.

Thursday, September 30, Ward 6, Mason School, 1243 Centre street, 7:00 p.m. to 9:00 p.m.

Friday, October 1, Ward 5, Hyde School, 68 Lincoln street, 5:00 p.m. to 10:00 p.m.

On all dates listed above, City Hall will also be opened at the same time to have registrations as well as the places above.

## Awarded Blue Ribbon For Rose Exhibit at Marshfield Fair

Dr. Harry E. Raymond, West Newton rose culturist, who won the silver cup at the New England Rose Society rose show in

## Bloodmobile at City Hall Sept. 1

Thursday, September 1, the Red Cross Bloodmobile will visit Newton City Hall from 10:00 a.m. to 4:00 p.m.

The need for blood is still very urgent and all who possibly can do so are urged to donate their blood to this very worthy cause.

Appointment should be made by calling either LAsell 7-6000 or Bigelow 4-9591, or by contacting Newton Chapter, American Red Cross, 21 Foster street, Newtonville.

## Two Youths Held For Grand Jury

Judge W. Lloyd Allen in the Newton District Court Tuesday, held two youths in \$2000 bail each for the Grand Jury. The two youths allegedly returned to the scene of a successful burglary committed two years ago and Judge Allen found probable cause on two complaints against each defendant.

Pleading guilty to complaints of breaking and entering and larceny early Monday morning, were George J. Fiore, 19, of 28 Hutchinson street, Revere, and William B. Hixon, 20, of 97 Addison street, East Boston.

Fiore was arrested by Patrolmen Frederick D. Fraini and James J. Kiley at 1:50 a.m., Monday, while allegedly acting as a lookout for Hixon who, police declare, had entered the Su-

"A great deal has been said regarding the motives in this matter," Mr. Jones continued. "A year ago the MDC sold land to a concern that wanted to develop it. Upon learning of the action the Board of Aldermen asked the MDC why it hadn't been consulted. Newton was informed that only a park commission could deal with the MDC in this matter. The appointment of this commission was only an attempt to have a say."

The case is likely to go to the Supreme Court.

Judge J. J. Spiegel of 74 Colbert road, West Newton, and Leon Steinberg of Brookline, president, are representing the Temple. Also attending from the Temple are its five trustees, Henry G. Cohen, Nathan Yamins, Harry Feinberg and Robert Goldstein, all of Newton, and Miah Marcuson of Brookline.

The MDC is represented by Arnold Salisbury of the attorney-general's office, MDC Commissioner Milton Cook of 62 Fenno road, Newton Centre, and Edward F. Barry, acting MDC secretary.

# Newton Loses Legal Move To Rescind Sale of Land

## To Head Manufacturing Group in Feather Drive

As chairman of the Manufacturing Division for the Fall Red Feather Campaign, Richard S. Williams, Safety Director for the Receiving and Cathode Ray Tube Operations of the Raytheon Manufacturing Company, has been appointed, according to a statement recently made by Benjamin Shattuck, Newton Campaign chairman.

Williams has had several years experience working with Metropolitan Boston's Red Feather Campaign and in 1952 was group Chairman for the Metals and Machinery Division. He is well known in the field of Safety and Labor Relations both in New York City and Boston and was connected with the American Tobacco Company and Coca Cola Company, and before joining Raytheon was with Manning, Maxwell and Moore. He is past president of the Personnel Association of Boston and a charter member of the New York Personnel Managers Association.

During the war as chairman of a New York City Victory Bond Team, Williams was awarded a special citation by the United States Treasury Department for conspicuously high sales of War Bonds. He has had many years experience in Boy Scout activities in Newton and elsewhere. He was one of the country's first Eagle Scouts and while in Canada was awarded the King's Scout award by Sir Robert Baden-Powell, founder of the Boy Scouts.

Williams attended McGill Uni-



RICHARD S. WILLIAMS

winner of St. Petersburg-Havana Racing Classic.

Associated with Mr. Williams as members of the Manufacturing Committee will be: William F. Wingard, General Manager of the Ucinite Company; Paul Rubenstein, Office Manager of Security Mills, Inc.; Edward E.

Tuesday in Suffolk Superior Court, Newton lost its legal move to rescind or restrain sale of 23 acres of land on Hammond Pond Parkway by the Metropolitan District Commission to Congregation Mishkan Tefila of Roxbury.

Judge Daniel T. O'Connell, in ruling on behalf of the Temple and the M. D. C. in opposition to the city's bill in equity, said the M. D. C. was not required to obtain approval of the newly-appointed Newton Board of Park Commissioners to make the sale.

Mayor Howard Whitmore Jr., brought the suit against the M.D.C. alleging it took the action last July 22 without concurrence of the Board of Park Commissioners appointed by the mayor on July 19. The board named by Mayor Whitmore at the request of the Newton aldermen is the first park commission in the city.

The M. D. C. voted to sell the land to the Temple for \$9200, as a site for a new building.

Jacob J. Spiegel, counsel for the Temple, and Asst. Atty. Gen. Arnold H. Salisbury, for the M. D. C., argued the new Newton park board was not legally authorized to act at the time the M. D. C. vote was taken approving the sale.

Judge O'Connell, in his order for a decree against the city, said he ruled that "a binding contract for the sale of the real estate was entered into between the parties and that the respondents, as members of the Metropolitan District Commission, were not required to secure the concurrence to the sale of the real estate by the Park Commissioners."

## Tap-on-Door Fund Drive to Be Held Monday Night

A "tap-on-door" campaign in the interest of the March of Dimes fund, will be held throughout the city Monday night commencing at 6 o'clock. During Monday night, volunteer workers will go from door to door seeking funds for the polio fund campaign which, to date, is lagging.

Newton's quota for the campaign which will end next week is \$13,000 and to date only \$2,482.35 has been secured for this most worthy cause. Residents who are solicited next Monday night are urged to be as generous as possible so that victims of polio may be given proper hospitalization.

There is still a need for more volunteers to aid in this "tap-on-door" campaign next Monday night and teen-agers, particularly, are urged to volunteer their services for a few hours. They may do so by calling Marjorie Proctor, LA-sell 7-2717 or Mrs. Capaldo, Bigelow 4-5628.

## Free Chest X-ray

The judge ruled that the only question he had to decide was whether the Newton Park Commissioners "were duly constituted in law as of the date of the filing of the bill of complaint and whether the respondents (M.D.C.) were required to secure the concurrence of the plaintiff park commissioners to the sale of the real estate."

Judge O'Connell said the facts alleged in the dispute and the arguments made on behalf of the Temple and M. D. C., "are sufficient in law to bar the complainants (Newton) from the relief sought."

Matt B. Jones, Newton city solicitor, argued the Newton Park Board had authority to act as soon as it was appointed. Attorneys indicated Judge O'Connell's ruling will be appealed to the Supreme Judicial Court.

Congregation Mishkan Tefila spokesmen said the Newton land was sought because more than half of its 700 families now reside in the Newton area.

# Letters

## DECISION ON LAND SALE

—o—

Editor, Newton Graphic:

Enclosed you will please find a copy of the decision of Judge Daniel T. O'Connell of Suffolk Superior Court supporting the contention of the Attorney General representing the Commissioners of the Metropolitan District Commission and the Congregation Mishkan Tefila that sale of the Hammond Pond Parkway, Newton land was properly made.

Religious forces throughout the city hail this decision as being in the best interests of the Community.

Leon Steinberg, President  
Temple Mishkan Tefila

### FINDINGS AND ORDER

This cause came on to be heard by me upon the bill of complaint and the pleas filed by the several respondents. The parties did not argue the sufficiency of the pleas, as to the facts stated therein, or introduce evidence in support of the truth of the facts stated in the several pleas.

The arguments were addressed to the allegations of the bill of complaint and the matter set forth in the pleas. In substance, the parties presented to the court the question of law as to whether or not the respondents, acting as members of the Metropolitan District Commission, were required to secure the concurrence of the plaintiffs, as Park Commissioners, to the sale of the real estate, described in the bill of complaint.

Thereafter the parties, at the request of the court, entered into a "statement of agreed facts." In view of the failure of the plaintiffs to agree as to the statements contained in



paragraph three thereof and the reservations contained therein by the parties, I rule that the so-called "statement of agreed facts" does not constitute an agreed statement of all the material facts. I have therefore decided the case upon the allegations contained in the bill of complaint, the amendment thereto, and the several pleas.

In view of the conduct of the parties in submitting the issues to the court, without the introduction of any evidence, I rule that the only issues submitted to the court are the questions whether the complainants, as Park Commissioners, were duly constituted in law as of the date of the filing of the bill of complaint and whether the respondents were required to secure the concurrence of the plaintiff Park Commissioners to the sale of the real estate described in the bill of complaint.

I further rule that a binding contract for the sale of the real estate was entered into between the parties and that the respondents, as members of the Metropolitan District Commission, were not required to secure the concurrence to the sale of the real estate by the Park Commissioners.

I rule that the several pleas, based upon the facts alleged therein, are sufficient in law to bar the complainants from the relief sought in the bill of complaint.

Accordingly, decrees may be entered to this effect upon the several pleas.

Mrs. Henry Urquhart of  
Justice of the Superior Court  
Entered: August 23, 1954.

## **For One W This SENSATION**

The famous ROTO-BROIL cu  
Grills, Toasts, Fries, Roasts  
FEATURING: Gold decorated  
Bell ringing automatic timer,  
appliances automatically, Full

PLUS . . . Absolutely FREE  
TRAY which transforms the r  
baking oven. Use also as a s

PLUS . . . Absolutely FREE  
ROYAL BUCKINGHAM 4 pc  
8" carver, 8" slicer, unique ca  
ening steel with Nu Elk-Horn

PLUS . . . Absolutely FREE  
BUTLER 3 tier portable tabl  
Folds up when not in use.

**ROTO-BROIL Custom "400".**  
**BAK-A-TRAY**

# City Drops Protest of MDC Land Sale to Roxb'y Temple

Newton will not carry to the Supreme Court its protest against the sale of Metropolitan District Commission land in Chestnut Hill to a Roxbury temple, Mayor Howard Whitmore Jr. revealed this week in an exchange of correspondence with the temple's president.

## 439 Newton Citizens

Registered Since

Sept. 15.

13,747 Still Can't

Vote on November 2.

Register Before Friday  
Night

So You Can Vote!

## Seek Workers For Newton Red Cross Chapter

Mrs. Donald E. Mayberry, chairman of Canteen Service, Newton Chapter, American Red Cross, has issued a special appeal for volunteers. Recruits are needed for the Canteen Disaster Unit and for the regular Chapter program.

Volunteers for the Disaster Unit must be prepared to go into immediate action at any hour, whenever disaster strikes. Canteen is called upon to feed relief workers and victims of fire, floods, hurricanes or train wrecks.

"The recent emergencies," states Mrs. Mayberry, "have proved that training is absolutely essential before a volunteer can do an effective job. There is a 12-hour training course for women who sign up for disaster as well as for

— WORKERS —

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## 5 Classes for Diabetics to Be Held Here

The third series of 5 classes for people with diabetes, their immediate relatives or those responsible for the care of diabetic patients will be held on Thursday evenings, October 7 through November 4. The meetings are scheduled for 7:30 to 9 p.m. and will be held at the headquarters of the Newton Nutrition Centre and Visiting Nurse Association, 1990 Washington street, Newton Lower Falls.

This program is being sponsored by the Newton and Wellesley Visiting Nurses, Nutrition Services, Health Departments and Hospital. Instruction for the October series of meetings will be provided by Miss Charlotte Stearns, Visiting Nurse and Mrs. Ellen Sheehan, Nutritionist, both of Wellesley. A small fee is asked to help cover cost of the program.

Registration in the group is limited to about ten persons. In this way the members of the group can receive more individual attention to their questions. Diet, use of insulin, meaning of tests, special preventive care are some of the subjects that will be considered. The informal meetings allow plenty of time for discussion and questions.

Registrations are being received by the Newton Nutrition Center, BI 4-4912.

In a "bury the hatchet" letter, Mayor Whitmore repeated the city's opposition "was based solely on our desire to have some voice in the disposition of land held for park and recreational purposes." He explained that an understanding between the M.D.C. and the city—plus the creation of a Park Commission—has now accomplished this.

The mayor wholeheartedly welcomed the congregation of Temple Mishkan Tefila to Newton, assuring the members that the presence of their new temple and school "will enrich the spiritual life of the community."

Dropping of the legal protest was noted in an exchange of letters between the mayor and Nathan Yamins of 1429 Commonwealth avenue, West Newton, president of Congregational Mishkan Tefila.

Opposition to the sale of a tract off Hammond Pond parkway to the Roxbury temple was first voiced officially at a June meeting of the Newton Board of Aldermen, after a hearing had been conducted by the M.D.C. By a 15-3 vote, a resolution was passed urging the M.D.C. to hold the property "for development and the continuing use as a recreational area for park purposes."

The M.D.C. owns 51 undeveloped acres of land on the west side of Hammond Pond parkway. The land has been under M.D.C. control for about 40 years, but no improvements have been made to the hilly rocky area during this period.

When the question of the sale came up, a Park Commission was appointed by Mayor Whitmore, consisting of the members

— MDC —

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of the Planning Board. The Commission was created to give the city control over the sale of M.D.C. land within its borders, since laws provide the M.D.C. must notify such bodies before selling property in the city.

However, in later court action it was ruled that the Park Commission had no bearing on the Chestnut Hill sale as it had been created too late.

The mayor's letter follows:

"I am pleased to advise you that in view of the fact that the Metropolitan District Commission as now constituted has voted that it will not sell any of its Park land in the City of Newton prior to May 2, 1955 without the concurrence of the Mayor of the City of Newton and its Board of Aldermen, the Park Commissioners and I, as Mayor of Newton, have decided not to appeal to the Supreme Court the finding of the Superior Court Justice in the pending litigation.

"Our objection to the sale of Park land in Newton by the Metropolitan District Commission was based solely on our desire to have some voice in the disposition of land held for park and recreational purposes. This has now been substantially accomplished as a result of the vote of the Metropolitan District Commission and by the creation of a Board of Park Commissioners in the City of Newton.

"As Mayor of the City of Newton I look forward to welcoming your Congregation to our City. I know that the presence of your Temple will enrich the spiritual life of the community."

Mr. Yamin's reply was:

"Your letter of welcome was enthusiastically received, not only by me personally, but by the entire Congregation.

"We realize the problem that exists in the City of Newton relative to the scarcity of available Park Land and we appreciate and respect your desire to have a voice in the disposition of M.D.C. Park Land in Newton.

"I know, too, from our talks with you and the members of the Park Commission that both you and the Commission are eager to co-operate with us in every way.

"As soon as our engineering survey is completed, we shall be happy to again confer with you and the Park Commissioners so that the location and areas of land used will prove most beneficial to the Temple and the City of Newton, bearing in mind the future park plans of the City.

"Again, please accept the thanks of the Congregation for your gracious welcome and your sincere cooperation."