§ 2:6. — **Public parks**

Another interesting application of the Trust Doctrine has been in the use of public parks. In 1899, a case arose from the Indian Ter-

ritory that went to the Federal Court of Appeals.[8] The case involved some land that had been dedicated for use as a public park. After twenty-three years of public ownership and the spending of tax money to improve the parks, the governing authority of the Cherokee nation passed an Act to subdivide the parks into lots and to sell them. The Court held that, "The real value of the land in the parks is the value of the right to use it, and when the nation sells the parks it derives its purchase price, in fact, not from the sale of the title to the land, but from the sale or the destruction of the right of the people to use that land for park purposes."[9] The Court then applied classical trust law and noted that, ". . . The enforcement of trusts is one of the great heads of equity jurisdiction. The land in these parks, if it was really dedicated to the use of the public for park purposes, is held in trust for that use, and courts of equity always interfere in the suit of a *cestui que* trust or a *cestui que* use to prohibit a violation of the trust, or a destruction of the right of user."[10]

8. Davenport v Buffington, 97 F 234 (1899, CA8 Ind Terr).

9. Supra at 236.

10. Supra at 236. See also Allen v Hickel, 424 F2d 944, 947 (1970, App DC). See also Smith v Corporation of Washington, 21 How 135, 15 L Ed 858 (1857, US); Hague v Committee for Industrial Organization, 101 F2d 774 (1939, CA3 NJ), mod on other grounds 307 US 496, 83 L Ed 1423, 59 S Ct 954.