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CONDEMNATION OF RIGHT OF WAY FOR PUBLIC USE

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REIMBURSEMENT OF LOSS OF REVENUE TO CITIES FOR EXEMPTIONS FOR MILITARY SERVICE. Assembly Constitutional Amendment No. 12.

Adds Section 5 to Article XIII of Constitution. Authorizes Appropriations by State from general revenues, after legislative investigation, to reimburse any city for loss of revenue resulting from taxation exemptions allowed by Section 14 of same article on account of military service, provided the value of the property so exempted is not less than five per cent of total assessed valuation of property in such city.

NO

Assembly Constitutional Amendment No. 12—A resolution to propose to the people of the State of California to amend article thirteen of the constitution by adding a new section thereto to be numbered five, relating to reimbursement to cities for taxes lost on account of exemptions.

Resolved by the assembly, the senate concurring. That the legislature of the State of California, at its forty-second regular session, commencing on the eighth day of January, nineteen hundred seventeen, two-thirds of the members elected to each of the two houses of the said legislature voting therefor, hereby proposes to the people of the State of California to amend article thirteen of the constitution of this state by adding a new section thereto to be numbered five and to read as follows:

PROPOSED AMENDMENT.

Sec. 5. The state, from time to time, after due investigation by the legislature, may appropriate money from the general revenues to supply to any city the loss of revenue resulting to such city from the exemption from taxation allowed by section one and one-quarter of article thirteen of this constitution; provided, however, that no such appropriation shall be made unless it shall sufficiently appear to the legislature that the value of the property so exempted from taxation is not less than five per cent of the total assessed valuation of property in such city.

ARGUMENT IN FAVOR OF ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 12.

The people of the State of California, by the adoption of section 1 1/4 of article XIII of the constitution of the state, exempted from taxed property to the extent of \$1,000 of those who had served in the army, navy, marine corps, or revenue marine service of the United States in time of war and received an honorable discharge therefrom, said exemption extending to property of other persons under certain conditions, as

will more fully appear from a reading of the section above referred to.

The people at the time of the adoption of that amendment did a very praiseworthy act, and can not be considered the guilty for the passage of that exemption, but particularly will the burden of the exemption fall upon the city of Sawtelle, which city adjoins the National Soldiers' Home, in great numbers of the veterans of the wars reside upon their own property in said city.

The total of exemptions claimed in the city of Sawtelle during the fiscal year 1916-17 was \$2,285.54, being the amount of taxes that would have been collected from the \$551,485.30, the assessed valuation upon which exemptions were claimed.

The injustice on the city of Sawtelle must therefore be apparent, as the whole people of the State of California voted an exemption and the people of this one community, who are not veterans, are forced to bear the whole burden of the exemption.

The amendment proposed provides that the legislature may in after years reimburse any city whose loss in taxation is at least five per cent on the total assessed valuation of the property within the city. There is only one city in the state which will come within the purview of this act, and that is the city of Sawtelle, as above set forth. The reimbursing of this city by the state is a very small matter, but the bearing of this amount of exemption by the one community is considerable of a burden, the exemptions in two years amounting to \$6,042.36.

For the reasons heretofore set forth, and in the interests of justice, it is respectfully urged that this constitutional amendment be adopted.

CHARLES W. LYON,
Assemblyman, Sixty-second District.
J. E. MANNING,
Assemblyman, Seventeenth District.

CONDEMNATION OF RIGHT OF WAY FOR PUBLIC USE. Assembly Constitutional Amendment 31. Amends Section 14 Article I of Constitution. Exempts counties from provisions requiring compensation be first made or paid into court for owner before right of way is appropriated; adds provision authorizing state, political subdivision thereof or district, upon commencement of condemnation proceedings for right of way, to take immediate possession thereof upon making money deposits in such amounts as court may determine adequate to secure to owner immediate payment as compensation therefor, permitting court on motion and upon notice to alter amount of such security.

YES

NO

Assembly Constitutional Amendment No. 31—A resolution to propose to the people of the State of California an amendment to section fourteen of article one of the constitution, relating to the taking of private property for public use.

The legislature of the State of California, at its forty-second regular session commencing on the eighth day of January, nineteen hundred seventeen, two-thirds of the members elected to each of the two houses of the said legislature

voting therefor, hereby proposes to the people the State of California that section fourteen article one of the constitution of this state amended so as to read as follows:

PROPOSED AMENDMENT.

(Proposed changes in provisions are printed in black-faced type.)

Sec. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way shall

be appropriated to the use of any corporation, except a municipal corporation or a county, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; provided, that in an action in eminent domain brought by the state, or a county, or a municipal corporation, or a drainage, irrigation, levee, or reclamation district, the aforesaid state or political subdivision thereof or district may take immediate possession and use of any right of way required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposits as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier.

Section fourteen, article one, proposed to be amended, now reads as follows:

EXISTING PROVISIONS.

(Provisions proposed to be repealed are printed in italics.)

Sec. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way shall be appropriated to the use of any corporation other than municipal until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier.

ARGUMENTS IN FAVOR OF ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 31.

The principal purpose of this amendment is to permit the state, a county, a municipal corporation, or a drainage, irrigation, levee or reclamation district, when acquiring *rights of way only,*

in eminent domain proceedings, to take possession upon commencing a condemnation suit and depositing in court such amount of cash money as is fixed by the court to secure the expense in the final payment of the compensation and damages fixed by the jury. If it should appear later that this amount is inadequate the court is empowered to increase it.

Experience has shown that cities, in acquiring long stretches of rights of way for public purposes, are often held up by unreasonable and arbitrary owners who attempt to take advantage of a rule which requires that the city can not go into possession prior to a jury actually fixing the compensation to be paid.

This has led to the adoption of such an amendment as is here proposed in the following twenty-one states: Arkansas, Connecticut, Florida, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Utah, Vermont, Virginia and Wisconsin.

Also, in the acquisition of rights of way by public districts for flood control, it is sometimes absolutely imperative, because of storm and weather conditions, and in order to protect vast areas of land and save property of incalculable value, that these districts be given the power to enter into immediate possession.

Another change effected by the amendment is to extend to counties the same privileges that a municipal corporation now has to set off benefits that might result to an owner's property in determining the compensation that must be paid.

L. L. DENNEY,
Assemblyman Fifteenth District.

As the law now stands, if the state, or any political subdivision thereof, seeks to condemn private property for a right of way, for example, for a road, an irrigation canal, or for flood protection, possession of the property can not be obtained until after a jury has determined the amount of compensation to be paid for the taking of such property. This may take several months. The amendment proposed merely permits the state or political subdivision thereof, after commencement of proceedings to condemn, by giving adequate security, to take possession of the property and proceed with the work before the jury has determined how much should be paid.

It can readily be seen that this amendment does not work any hardship upon the property owner. Under the present law the state or political subdivision can condemn property and after a jury has fixed the damage and compensation to be paid, can pay such amount and enter into possession. This amendment merely permits a change in the order of proceedings. The property owner will receive exactly the same compensation that he would have received and has the same remedies.

Under existing law, no matter how urgent may be the necessity, or how great may be the damages suffered by delay, possession can not be obtained until after what may become protracted litigation.

This amendment is eminently just and fair and will protect adequately both the public interests and private rights.

L. L. DENNEY,
Assemblyman Forty-sixth District.