

1936

EMINENT DOMAIN

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13 EMINENT DOMAIN. Assembly Constitutional Amendment 77. Amends section 14 of Article I of Constitution. Grants power of eminent domain to State agency or corporation operating, managing and controlling any exposition or fair in aid of which the granting of public moneys or other things of value has been authorized by the Constitution of this State. Authorizes in eminent domain proceedings the taking of immediate possession of right of way, property, or lands acquired for public use upon deposit in court of money to pay subsequent award of compensation.	YES	
	NO	

(For full text of measure, see page 29, Part II)

Argument in Favor of Assembly Constitutional Amendment No. 77

Section 14 of the Constitution as it now exists permits state, county and certain other public corporations to take possession of certain properties while condemnation proceedings are in progress, by posting an amount fixed by the Court to protect any judgment that may be awarded in such proceeding. This Constitutional Amendment adds to and includes within the list of those bodies permitted to take immediate possession, as above indicated, a corporation operating, managing, and controlling any exposition or fair.

This amendment is necessary in order that the acquisition of an exposition site could be secured at as early a date as possible, and in the event of condemnation the Exposition could not be halted by long drawn out litigation. The rights of the property owner are protected by the provision which requires the money to be deposited in Court before possession is taken of the property and this amendment affects only the question of possession, pending the litigation, and should be supported.

Respectfully submitted,

CHARLES W. LYON,
Member of the Assembly,
Fifty-ninth District.

THOMAS J. CUNNINGHAM,
Member of the Assembly,
Fifty-sixth District.

Argument Against Assembly Constitutional Amendment No. 77

Eminent domain proceedings have always been considered an extraordinary proceeding which for the protection of the rights of pri-

vate ownership should be most sparingly used and were limited to cases where the public good was at stake and to actions brought by governmental agencies. These actions are brought only when the corporation does not make an offer for the property which the owner feels is just or sufficient and while we have endeavored to secure the rights of every litigant in such proceedings by what safeguards we can the poor man is still at a disadvantage for lack of funds with which to secure the expert witnesses who are at the beck and call of the corporation. Furthermore there is no procedure provided to fix the compensation to be deposited in court prior to entry on the land by any hearing or means other than the discretion of the judge sitting on the case who is often uninformed as to its value. This right has already been extended to water, drainage, irrigation, levee, reclamation and water conservation districts as well as public corporations but this amendment now attempts to extend it to STATE AGENCIES, which might mean most anything, and to FAIRS receiving public moneys or other things of value from governmental agencies. Most fairs would thus have the right to condemn and wipe out valuable residential or business property from our tax rolls and substitute therefor a few fair buildings of no value and probably less financial ability, most fairs being in the red. It would give them the right to condemn and place a fair, including its race track, wherever they pleased and I can not consider a fair a public necessity justifying such an extraordinary remedy as eminent domain.

For these reasons I say "Vote No on A. C. A. 77."

ERNEST C. CROWLEY,
Member of the Assembly,
Fifth District.

court, unless he shall have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding his election or appointment to such office.

Twelfth. Section 24 of Article VI is hereby amended to read as follows:

Sec. 24. No justice of the Supreme Court, nor of the Court of Criminal Appeals, nor of a District Court of Appeal, nor any judge of a superior court,

nor of a municipal court shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undetermined that has been submitted for decision for a period of ninety days. In the determination of causes all decisions of the Supreme Court, of the Court of Criminal Appeals and of the District Courts of Appeal shall be given in writing, and the grounds of the decision shall be stated.

EMINENT DOMAIN. Assembly Constitutional Amendment 77. Amends section 14 of Article I of Constitution. Grants power of eminent domain to State agency or corporation operating, managing and controlling any exposition or fair in aid of which the granting of public moneys or other things of value has been authorized by the constitution of this State. Authorizes in eminent domain proceedings the taking of immediate possession of right of way, property, or lands acquired for public use upon deposit in court of money to pay subsequent award of compensation.

13

YES	
NO	

Assembly Constitutional Amendment No. 77—A resolution to propose to the people of the State of California an amendment to section 14 of Article I of the Constitution of said State, relating to the rights of private property.

Resolved by the Assembly, the Senate concurring, that the Legislature of the State of California, at fifty-first regular session, commencing on the seventh day of January, 1935, two-thirds of all the members elected to each of the two houses voting in favor thereof, hereby proposes to the people of the State of California that section 14 of Article I of the Constitution be amended to read as follows:

(This proposed amendment expressly amends an existing section of the Constitution; therefore, EXISTING PROVISIONS proposed to be DELETED are printed in STRIKE-OUT TYPE; and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

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 or lands to be used for reservoir purposes shall be appropriated to the use of any corporation, except a municipal corporation or a county or the State or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or ~~similar~~ public corporation or district or State agency 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 any proceeding in eminent domain brought by the State, or a county, or a municipal corporation, or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or ~~similar~~ public corporation or district or State agency, or corporation operating, managing and controlling any exposition or fair in aid of which the granting of public moneys or other things of value have been authorized by the Constitution or laws of this State, the aforesaid State or municipality or county or public corporation or district or State agency or corporation aforesaid may take immediate possession and use of any right of way or property or lands to be used for reservoir purposes, 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 deposited 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.

14 **CONSOLIDATED CITY AND COUNTY GOVERNMENT. Assembly Constitutional Amendment No. 3.** Amends section 7½a of Article XI of Constitution. Provides a method by which any county, regardless of population, having one or more incorporated cities within its boundaries, may frame and adopt a charter for a consolidated city and county government having same boundaries as the former county. (Present constitutional provision excludes counties having less than 200,000 population from the right to adopt such a consolidated government and permits establishment of a city and county government for area comprising only a portion of the former county.)

YES	
NO	

Assembly Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to section 7½a of Article XI of the Constitution of the State of California, relating to local government.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its fifty-first regular session commencing on the seventh day of January, 1935, two-thirds of the members elected to each of the two houses voting in favor therefor, hereby proposes to the people of the State of California that section 7½a of Article XI of the Constitution of the State of California be amended to read as follows:

(This proposed amendment expressly amends an existing section of the Constitution; therefore, EXISTING PROVISIONS proposed to be DELETED are printed in STRIKE-OUT TYPE; and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Sec. 7½a. Any county organized under the general law, and having, at the time this section takes effect, a population of two hundred thousand inhabitants or over, as ascertained by the last preceding census taken under authority of the Congress of the United States, and having within its territorial boundaries one or more incorporated cities or towns, may frame a charter for a consolidated city and county government, by causing a board of fifteen freeholders, who have been for at least five years qualified electors of the county, to be elected by the qualified electors of said county, at a special election. Said board of freeholders may be so elected in pursuance of an ordinance adopted by the vote of three-fifths of all of the members of the board of supervisors of such county, declaring that public interest requires the election of such board of freeholders for the purpose of preparing and pro-

posing a charter for a consolidated city and county, with or without a system of boroughs, with combined powers of a city and a county, as in this Constitution provided for city and county government; or in pursuance of a petition of qualified electors of said county as hereinafter provided; which said petition must state the name and address of a person or persons to whom notice of the insufficiency of the petition shall be sent in the event that the petition shall not have the required number of signatures of the qualified electors signed thereto. Such petition, signed by fifteen per centum of the qualified electors of said county, computed upon the total number of votes cast therein for candidates for Governor at the last preceding general election at which a Governor was elected, praying for the election of a board of fifteen freeholders to prepare and propose a charter for a consolidated city and county government, with or without a system of boroughs, with combined powers of a city and a county, as in this Constitution provided, may be filed in the office of the county clerk. It shall be the duty of the said county clerk, within twenty days after the filing of said petition, to examine the same, and to ascertain from the record of the registration of the electors of the county, whether said petition is signed by the requisite number of qualified electors. If required by said clerk, the board of supervisors shall authorize him to employ persons to assist him in the work of examining such petition, and the board shall provide for their compensation. Upon the completion of such examination, said clerk shall forthwith attach to said petition his certificate, properly dated, showing the results of his examination, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall immediately present said petition to the board of supervisors, if it be in session, otherwise at its next regular meeting after the date of such certificate. If it appear by said certificate that said

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