

1934

EMINENT DOMAIN

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20 STOCK OWNERSHIP BY CITIES IN MUTUAL WATER COMPANIES. Assembly Constitutional Amendment 2. Adds section 31c to Article IV of Constitution. Provides that any city of fifth or sixth class may acquire and hold stock of any mutual water company for purpose of furnishing supply of water for public or municipal purposes or for use of city's inhabitants; declares that the holding of such stock shall entitle city to all rights, and subject city to all obligations, given or imposed by law to or upon other holders of stock in such company.	YES	
	NO	

(For full text of measure, see page 44, part II)

Argument in Favor of Assembly Constitutional Amendment No. 2

This constitutional amendment was passed by both houses of the 1933 Legislature without a dissenting vote. It allows all sixth class cities (the smaller cities) to acquire and hold shares of capital stock in mutual water companies when such stock is acquired or held for the purpose of furnishing a supply of water for public or municipal purposes and for the use of the inhabitants of the city.

The only purpose of this amendment is to provide for additional water supply for domestic purposes.

Two years ago the city of Escondido was granted this right by an overwhelming vote of the electors.

Vote Yes on this amendment to help the smaller cities to increase their domestic water supply.

A. E. BROCK,
73d Assembly District.
CHARLES W. STREAM,
80th Assembly District.

21 EMINENT DOMAIN. Senate Constitutional Amendment 48. Amends Constitution, Article I, section 14. Declares no right of way, or lands to be used for reservoir purposes, shall be appropriated to use of any corporation until full compensation therefor is first made in money or paid into court for owner; provided that the State, counties, municipal corporations, and other public corporations of character therein stated, may in eminent domain proceedings take immediate possession of such rights of way or such lands upon depositing such money as court directs to secure to owner immediate payment of just compensation for such taking.	YES	
	NO	

(For full text of measure, see page 45, part II)

Argument in Favor of Senate Constitutional Amendment No. 48

The purpose of this amendment is twofold:

1. To extend to metropolitan water districts, municipal utility districts, municipal water districts and water conservation districts the same privilege and authority as now vested in irrigation districts, drainage districts, levee districts, reclamation districts, municipalities, counties and the State—namely, the right to take possession of property sought for rights of way immediately upon payment into court of the amount fixed by the court as compensation.

2. To extend this right to cover lands to be used for reservoir purposes, as well as lands to be used for rights of way.

The recent development of the State, especially in the way of water resources, has

brought about types of districts which are especially designed for their particular purpose and which handle projects for irrigation, reclamation, levee protection, water conservation, etc., that can not well be handled by the city or even by the county. These districts in some instances embrace parts of several counties and appear to be the only suitable agency for handling their particular projects.

It has long been the policy of this State, approved by the people of California, that sovereign agencies such as the State itself, or counties or cities, should have the right, when lands are required for rights of way such as roads and highways, to take immediate possession upon payment into court of the amount fixed by the judge to cover any award by the jury as the value of the land. This

same authority, so far as concerns land for rights of way, also now exists in the case of irrigation, drainage, levee and reclamation districts.

The reasons for this policy are obvious. Unless the State highway authorities, or the county or city, could take possession, upon payment into court of the amount fixed as compensation, of property required for highways, roads or streets, private property owners could hold up for years the construction of our highways. Since the sovereign agency must be entitled to eventually obtain the required property, it has long been recognized that the practical and sensible thing was to allow the public agency to take possession at once so that construction work and development would not be delayed.

With the increased need for conserving and utilizing our water resources this same authority is found necessary in so far as applies to lands for reservoir sites. If the policy is wise as to rights of way for roads, streets, canals and ditches, it would seem to be equally sound and necessary in the case of reservoir sites.

Likewise, the authority which is found necessary for irrigation, drainage, levee and reclamation districts should obviously likewise be available to the new and recently created types of districts, such as metropolitan water districts, municipal utility districts, municipal water districts and water conservation districts.

This amendment does away with the unfair discrimination which now exists between districts performing the same functions.

This amendment simply extends the policy that has long been recognized, not only as desirable, but as absolutely necessary in order that government may carry on its functions. Unless this amendment is adopted it will be possible for one individual to hold up in litigation for many years the construction of essential works for the public's development or utilization of water.

An owner of private property can in no way be injured by this amendment, for he is protected in his rights by full compensation, whereas the people as a whole are greatly benefited in enabling projects to be constructed immediately, instead of being subjected to long and expensive delay through the arbitrary action of an individual property owner in refusing to accept a reasonable price for his property.

The signers of this argument come from varied parts of the State and believe it is essential as a public policy in all parts of California.

Vote "Yes."

SENATOR HERBERT C. JONES,
Santa Clara County.

SENATOR WALTER DUVAL,
Ventura County.

SENATOR RALPH SWING,
San Bernardino County.

AUTHORIZING AGREEMENTS BY POLITICAL SUBDIVISIONS FOR JOINT EXERCISE OF POWERS. Senate Constitutional Amendment 34. Permits two or more political subdivisions, majority of voters thereof respectively consenting, to jointly frame and adopt articles of agreement for joint exercise of powers and functions common thereto. Defines "political subdivision" as county, city and county, or incorporated city. Prescribes procedure for framing agreement by board of electors elected five from each subdivision, and for adoption, amendment and rescission thereof by majority vote in each subdivision. Agreement when adopted constitutes organic law of political subdivisions parties thereto as to competent matters therein contained.

22

YES

NO

(For full text of measure, see page 46, part II)

Argument in Favor of Senate Constitutional Amendment No. 34

This amendment provides a method by the use of which cities and counties would be able to increase governmental efficiency and still make those substantial savings which they have been trying so hard and so unsuccessfully to make. We have found that no great reduction in the tax rate can be made by pruning salaries and expense. We also know now that very few people are willing for their government to stop

performing any of the services now rendered; name a function that government should abandon and all the people directly affected rally to its defense. It would seem that if we are to reduce the cost of government very much there remains only one way to do it: some sort of consolidation must be made.

This proposed amendment does not provide for any changes of political boundaries; it can not be used to accomplish the difficult outright consolidation of cities, or counties, or cities and counties. It has only one purpose and that is

[Thirty]

21	EMINENT DOMAIN. Senate Constitutional Amendment 48. Amends Constitution, Article I, section 14. Declares no right of way, or lands to be used for reservoir purposes, shall be appropriated to use of any corporation until full compensation therefor is first made in money or paid into court for owner; provided that the State, counties, municipal corporations, and other public corporations of character therein stated, may in eminent domain proceedings take immediate possession of such rights of way or such lands upon depositing such money as court directs to secure to owner immediate payment of just compensation for such taking.	YES	
		NO	

Senate Constitutional Amendment No. 48—A resolution to propose to the people of the State of California, an amendment to the Constitution of said State by amending section 14 of Article I thereof, relating to eminent domain.

Resolved by the Senate, the Assembly concurring. That the Legislature of the State of California at its regular session commencing on the second day of January, 1933, 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 that section 14 of Article I of the Constitution of said State 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 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~~ 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, a drainage, irrigation, levee, or reclamation district or water conservation district, or similar public corporation, the aforesaid State or political subdivision thereof or district municipality or county or public corporation or district aforesaid may take immediate possession and use of any right of way 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.