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Real Property

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value of such property constitutes a misdemeanor, punishable by a fine of not less than the amount of the fee and not more than ten times such amount, imprisonment for not more than thirty days, or both. The legislature has thereby discouraged the establishment of businesses specializing in the production of claimants with a resultant loss in state revenues. The provision also protects owners from exorbitant charges which they might have to pay for information later coming to them under the publication and notice provisions of the statute.

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REAL PROPERTY

Eminent Domain. In *State* ex rel. *Eastvold v. Yelle*,[1] the court held the order-of-immediate-possession statute (RCW 8.04.090) violated the constitutional requirement of Article II, section 16, amendment 9, that just compensation must first be determined by litigation. Fast and orderly development of the state highway program is made more difficult by this barrier. The legislature took steps to facilitate the highway program in adoption of House Joint Resolution 22, proposing, for vote in November, 1956, an amendment to the constitution by insertion of

> except that after the filing of an action in eminent domain the state shall be entitled to immediate possession of property upon payment into court, before trial, of such amount as shall be provided by law.

If the voters approve the proposed amendment, the legislature may provide adequate safeguards for the landowner whose property must be taken by the state in the road program.

In the meantime, Chapter 213 provides in section 4 for stipulation by the state and the condemnee for immediate possession, which can speed cooperative acquisition, when the area of dispute is cost, without the necessity of full trial before acquisition. In addition, by section 3, special juries shall (formerly, may) be called if there would otherwise be a delay of more than sixty days until the next regular jury term.

Chapter 156 authorizes a single jury to determine values in separate trials under a single petition filed by the state. Sections 4 and 5 permit award of damages taking into account the feasibility of moving structures from the area taken, and permitting the state to move structures if an order directing removal is not otherwise complied with. Section 6 eliminates the provision formerly in RCW 8.04.010 calling for inability

[1] 146 Wash. Dec. 155, 279 P.2d 645 (1955).

of acquiring state agency to agree with owner on purchase price before the attorney general should initiate condemnation proceedings. The change may mean that the first step henceforth in land acquisition by the state will be filing a petition in court rather than extensive negotiation with the owners.

Chapter 155 makes clear that a jury may be waived in an action for condemnation by the state, amending RCW 8.04.092.

Plats, School Dedication. School authorities are sometimes suddenly caught by increased enrollments stemming from rapid residential growth in new subdivisions. Chapter 299 directs planning authorities to see "that appropriate provision is made in the .. subdivision for . . . sites for schools and school grounds. . ." This is new. There is nothing to indicate what "appropriate provision" is, and difficult constitutional problems may arise if requirements do not make allowances for the number of lots in a subdivision. Conceivably, a large subdivision might necessitate school facilities within its limits, whereas only the cumulation of effect of several small subdivisions would require school facilities. A suggested solution[2] which might better allocate the burden would be the establishment of a cumulative reserve fund supplied by charges against each lot, regardless of number, from which fund the necessary public areas (school, parks, etc.) could be acquired.

Forest Land. Chapter 142 makes numerous changes in the statutes concerning forest protection with reference to removal of slash and snags and to equipment required to operate. The statutes add the "timber owner and/or landowner" to the "operator" required to comply with certain provisions, and changes the position of the permit holder concerning fires. Formerly compliance with the permit conditions constituted "due care" but now it creates "a presumption of due care" (section 1).

Under section 6, if the supervisor has snags felled as a result of previous failures to do so, the lien for the costs may be foreclosed in the manner of a mechanic's lien. The method of enforcement was not formerly specified.

The rehabilitation of the Yacolt Burn area, implemented by Chapter 171, may result in liens against forest products harvested from lands in the area (section 4) to cover costs of fire protection projects in the high hazard area, if the land owner elects to pay his share of the costs on a

[2] See Jennings and Campbell, *Regulating Subdivisions. The Control of Plats, Subdivisions, or Dedications.* Information Bulletin No. 167 (1954), Association of Washington Cities.

deferred plan; otherwise the costs to a maximum of twenty-five cents per year per acre and aggregate maximum of $1.50 per acre are to be extended on the tax rolls (section 7).

By Chapter 115, section 2, a failure to restock an area logged, with the result that the supervisor has the restocking done can result in a lien arising more than six years after the logging is completed. There is no provision for filing the lien against the land restocked though enforcement is to be "in the same manner and with the same effect as a mechanic's lien". Problems of priority and secrecy of such a lien are obvious, but nothing indicates how these complications may affect persons who subsequently acquire interests in the land.

Oil and Gas Leases. Chapter 131 repeals the 1937 statute, as amended, and substitutes therefor new provisions concerning oil and gas leases of state lands. The new pattern authorizes 5-year leases, renewable to reach a maximum duration of 20 years, with a preference right for additional renewals, and eliminates a 3-year permit for exploration to precede leasing. Rental, prior to production which requires payment of minimum royalties of $5.00 per acre, is reduced from $1.00 to fifty cents per acre. Maximum area including river, lake, tide and submerged lands is specified. Formerly no maximum of such "water" lands was specified.

Royalty previously was twelve and one-half percent but shall now be "not less" than that figure. On the other hand royalty traceable to production of gas gives the producer a more favorable position, in that all gas produced is not computed in reaching the figure, as formerly, but only that delivered and sold by the lessee or used to manufacture gasoline or other products, less "a proper allowance for extraction costs." (section 19.)

Other provisions apparently are primarily modifications of the administrative directions of the statute.

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STATUTORY CONSTRUCTION

Effect of Amendments. Chapter 162 establishes a rule of statutory construction with respect to the effect of two or more acts amending the same section enacted at one session of the legislature. The rule stated is that "each act shall be given effect to the extent that the amendments do not conflict in purpose, otherwise the act last filed in the office of the Secretary of State in point of time, shall control". The