

EXHIBIT 15

DATE 03/22/13

HB SB 180

1895 CODE

- Section 2223. Report of commissioners.*
 " 2224. *Appeal.*
 " 2225. *New proceedings to cure defective title.*
 " 2226. *Payment of damages.*
 " 2227. *To whom paid.*
 " 2228. *Final order of condemnation, what to contain; when filed, title vests.*
 " 2229. *Putting plaintiff in possession.*
 " 2230. *Payment of costs.*
 " 2231. *Rules of practice.*
 " 2232. *Private roads.*
 " 2233. *Exceptions.*

§ 2210. Eminent domain is the right of the state to take private property for public use. This right may be exercised in the manner provided in this Title.

STATUTE TO BE STRICTLY CONSTRUED.—In *Bensley v. Mountain Lake Water Co.*, 13 Cal. 306, 73 Am. Dec. 575, the court said: "All statutory modes of divesting titles are strictly construed, and to be strictly followed." *S. P. R. R. Co. v. Wilson*, 49 Id. 398. He who relies for a title upon an extraordinary mode of acquisition given him, not by the will of the owner, ex-

press or implied, but against his will and by the mandate of the law, must show for his warrant a strict compliance with those statutory rules from which his title accrues: *Stanford v. Worn*, 27 Id. 174; see *Curran v. Shattuck*, 24 Id. 427; *Stockton v. Whitmore*, 50 Id. 554; *Gilmer v. Lime Point*, 19 Id. 58.

§ 2211. Subject to the provisions of this Title, the right of eminent domain may be exercised in behalf of the following public uses:

1. All public uses authorized by the government of the United States.
2. Public buildings and grounds for the use of the state, and all other public uses authorized by the legislative assembly of the state.
3. Public buildings and grounds for the use of any county, city, or town, or school district; canals, aqueducts, flumes, ditches or pipes conducting water, heat or gas for the use of the inhabitants of any county, city or town; raising the banks of streams, removing obstructions therefrom, and widening, deepening, or straightening their channels; roads, streets and alleys, and all other public uses for the benefit of any county, city or town, or the inhabitants thereof, which may be authorized by the legislative assembly; but the mode of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes or ordinances by which the same may be authorized.
4. Wharves, docks, piers, chutes, booms, ferries, bridges, of all kinds, private roads, plank and turnpike roads, railroads, canals, ditches, flumes, aqueducts and pipes for public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming

lands, and for floating logs and lumber on streams not navigable, and sites for reservoirs necessary for collecting and storing water.

5. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or the possessors of different mines of any place for the flow, deposit or conduct of tailings or refuse matter from their several mines, and sites for reservoirs necessary for collecting and storing water.

6. Private roads leading from highways to residences or farms.

7. Telephone or electric light lines.

8. Telegraph lines.

9. Sewerage of any city, county or town, or any subdivision thereof, whether incorporated or unincorporated, or of any settlement consisting of not less than ten families, or of any public buildings belonging to the state or to any college or university.

10. Tramway lines.

11. Electric power lines. [§ 2211. Act approved February 27, 1895.]

EMINENT DOMAIN, GENERALLY.

—The state has a general right to condemn land to public use, and she may select her own agent to accomplish this public end: *Rogers v. Bradshaw*, 20 Johns. 735. It seems not to be important whether a corporation, through whose instrumentality the object is to be attained, be a domestic or foreign corporation: *Varrick v. Smith*, 5 Paige, 137; *R. R. Co. v. Davis*, 2 Dev. & B. 451; 2 Gibbs, 447; 2 Kent's Com. 339; *Morris C. & B. Co. v. Townsend*, 24 Barb. 665. Private property cannot be taken for a private use except as provided by the constitution, nor shall it be taken "or damaged" for public or private use without just compensation having been first made, etc.: See sec. 14, art. III., of the constitution. This is an extension of the common provision for the protection of private property: *Transportation Co. v. Chicago*, 99 U. S. 635. The meaning of this extension of the words "or damaged" is very carefully considered in *Denver v. Bayer*, 7 Colo. 113, and many cases construing the expression are there cited and commented upon. It is within the power of the legislature to authorize the straightening, etc., of the channel of a river to protect a populous and important district of the state from threatened inundation and apprehended destruction: *Green v. Swift*, 47 Cal. 539.

Under the provisions of eminent domain, lands and property have been condemned and taken for a United States fort: *Gilmer v. Lime Point*, 19 Cal. 47; and other military purposes: *Gilmer v. Lime Point*, 18 Cal. 229; for municipal purposes, such as roads or streets: *Hidden v. Davisson*, 51 Cal. 138; *Ventura County v. Thompson*, 51

Cal. 577; *Weber v. Supervisors*, 59 Cal. 265; *Trahern v. Supervisors*, 59 Cal. 320; *In re Grove Street*, 61 Cal. 438; *Los Angeles v. Waldron*, 65 Cal. 283; water works: *Mahoney v. Supervisors*, 53 Cal. 383; water works for the benefit of the University of California: *People v. Pfeiffer*, 59 Cal. 89; supplying the inhabitants of a town with water: *St. Helena Water Co. v. Forbes*, 62 Cal. 182; *Lake Pleasanton Water Co. v. Contra Costa Water Co.*, 67 Cal. 659. See *S. V. W. W. v. San Mateo W. W.*, 64 Cal. 123, holding that plaintiffs could not condemn defendant's property, such not being "necessary" for the supplying of water by plaintiffs.

WATER DITCHES.—As to these the statute must be strictly pursued: *Dalton v. Water Commissioners*, 49 Cal. 222; *Cummings v. Peters*, 56 Cal. 595; and see *Lorenz v. Jacobs*, 63 Cal. 73, where owners of mining claim were not allowed to condemn land to obtain water to work their claim, although they intended to supply water to others for mining and agricultural purposes.

RAILROADS.—Railroads concern the public interest as a matter of legal judgment: *Napa Valley R. R. Co. v. Napa Co.*, 30 Cal. 437. The mere fact that a railroad is owned and operated by a private corporation and for private profit does not prevent it from being also of "public use": *S. & V. R. R. Co. v. City of Stockton*, 41 Cal. 148; *Contra Costa R. R. Co. v. Moss*, 23 Cal. 325. Whether workshops for repairing locomotives and cars are necessary appendages to a railroad, and whether land sought to be condemned for workshops is really needed, are questions for the jury to answer: *S. P. R. R. v. Raymond*, 53 Cal. 223.