

work, in an amount not to exceed \$500.00. Experience has proven that this limitation as to amount has materially hampered the processing of the Division's work, since the approval of contracts in excess of \$500.00 for the performance of necessary services has been delayed pending Commission action.

In order to correct this situation, and at the same time maintain in the Commission the authority for entering into agreements for major contractual services, it is suggested that the limitation so placed be raised to a figure more in keeping with the operating needs of the State Lands Division.

Upon motion duly made and carried, a resolution was adopted authorizing the Executive Officer to negotiate and execute any and all contracts for and on behalf of the State Lands Commission, in an amount not to exceed \$2,000, provided that services to be rendered are found to be necessary, and that such contracts are in accordance with the rules and regulations of the Department of Finance. This authorization shall supersede and supplant that granted the Executive Officer by the State Lands Commission at its meeting held April 14, 1948, Minute Item No. 11. This authorization shall expire at the date of the Commission meeting nearest to June 21, 1950, or at the date of the next vacancy in the office of the Executive Officer whichever is the sooner. A vote was taken upon this matter with the following result: Chairman Dean, Aye; Member Knight, Aye; Member Kuchel, No.

36. (Defense of State's rights in tide and submerged lands - N-5092) The Commission was informed that the State Lands Commission has been advised by the Office of the Attorney General that the unencumbered remainder of Contract No. LC 47 providing funds for the defense of the State's interest in its tide and submerged lands is less than \$2,000.00 and has requested that the contract be supplemented in the amount of \$20,000.00 for the purpose of meeting the Attorney General's expenses in connection with this action.

Upon motion duly made and unanimously carried, a resolution was adopted authorizing the Executive Officer to issue a supplementary contract to the Attorney General in the amount of \$20,000.00 for defense of the State's interest in its tide and submerged lands. Said contract to supplement that certain agreement known as LC 47 dated July 1, 1949.

37. (Acquisition by the United States of lands occupied by U.S. Naval Post Graduate School, Monterey, California, under provisions of Section 126, Government Code, W.O. 516) On July 26, 1949, the Commission authorized the Executive Officer to order and conduct the requisite hearings pursuant to Section 126 of the Government Code and under the Rules and Regulations adopted by the Commission on June 14, 1949, on applications for consent to acquisition by the United States of lands comprising a number of sites among which was the U. S. Navy Post Graduate School at Monterey, California.

Under date of June 27, 1949, a letter executed by Jack E. Cochrane, for the Chief of Bureau of Yards and Docks, acting presumably under the direction of the Secretary of the Navy, notified the State Lands Commission of acceptance by the Department of Navy of jurisdiction over the lands acquired by the United States for a post graduate school for the Navy at Monterey, California.

Pursuant to said application, arrangements were made to conduct a public hearing at Monterey, California, on December 19, 1949, at 2:00 o'clock P.M. Notice of such public hearing was published in the Monterey Peninsula Herald on December 3, 1949; affidavit of such publication has been received. Service on the Clerk of the Board of Supervisors of the County of Monterey was made on December 2, 1949 and return filed with the Commission. Notices were thus published and served in compliance with Section 2702, Calif. Admin. Code, Title 2, "Costs of publication

and of service of notice have been paid in full by the Navy.

The hearing was held by the Executive Officer at the City Hall, in Monterey, California, at 2:00 P.M., December 19, 1949. Record of the hearing was made and the transcript has been made a part of the Commission's records on this case. The Attorney General's office was represented by Mr. John F. Hassler, Deputy Attorney General.

Appearances were made on behalf of the Navy by the Commandant of the U. S. Navy Post Graduate School, Captain T. J. Casey, U.S.N. and by Mr. Thomas J. Murray, legal advisor, Public Works Office, 12th Naval District. No other appearances were made in support of the application and none against it.

Section 126 of the Government Code requires that the State Lands Commission must have found and declared to have occurred and to exist the fulfillment of certain specified conditions. Oral and documentary evidence having been presented in support of the contention of the applicant that these conditions have been met and complied with, conclusions with regard to their presentation are as follows:

As applied to this case the acquisition "must be for the erection of forts, magazines, arsenals, dock yards, and other needful buildings or other public purpose within the purview of Clause 17 of Section 8 of Article I of the Constitution of the United States". The U. S. Naval Post Graduate School at Monterey has been established by an Act of Congress approved July 31, 1947, (Public Law 303), for the advanced instruction and training of commissioned officers of the regular Navy and Marine Corps and the reserve components thereof. In the past the activities undertaken at this school have been conducted at the U. S. Naval Academy, Annapolis, Maryland, and the Naval Staff School, Newport, R. I. It is planned that the Monterey school will ultimately relieve these institutions of all post graduate work. The Monterey Post Graduate School is, therefore, believed to be comparable to the aforementioned institutions, and also to the Army Staff and Command School at Fort Leavenworth, Kansas, which performs similar functions for regular and reserve components of the Army. It is thus believed that the lands acquired for the said school were acquired for public purposes within the purview of the referenced clause, article, and section.

The second condition concerning which a finding must be made is "the acquisition must be pursuant to and in compliance with the laws of the United States". Evidence to support this condition has been presented in the form of reference to Public Law 302, U. S. Congress, approved July 31, 1947, which authorized the Secretary of the Navy to acquire the subject property; also, in the form of reference to Public Law 303, previously referred to. Additional evidence was presented by Mr. Thomas J. Murray in the form of an opinion as a land acquisition attorney that the acquisition was pursuant to and in compliance with the laws of the United States. Certificate of title was presented in evidence and made a part of the record.

The third condition upon which a finding was required is to the effect that "the United States must in writing have assented to acceptance of jurisdiction over the land upon and subject to each and all of the conditions and reservations in this section prescribed". Under the provisions of an Act of Congress approved October 9, 1940, Public Law 825, "the head or other authorized officer of any department" of the government may accept jurisdiction from the State. A letter from the Department of the Navy, dated June 27, 1949, accepting jurisdiction and signed

by Jack E. Cochrane, for the Chief of the Bureau of Yards and Docks, has been received. Mr. Cochrane's authority as "head or other authorized officer" of the Department of the Navy is supported only by evidence presented by the applicant at the hearing which is in the nature of hearsay evidence. Representatives of the Navy were advised of this deficiency on November 30, 1949. Therefore in addition to the letter of June 27, 1949, there has been submitted a copy of a letter (See Exhibit A) proposed to be executed by the Secretary of the Navy together with a teletype message over his name to the effect that the original of the letter referred to will be officially signed by him and forwarded.

The fourth requirement is that the Commission must have found and declared that such acquisition is in the interests of the State. Testimony presented at the hearing was to the effect that the Post Graduate School, in addition to affording training to a large number of student officers, some of whom would be residents of the State of California, would also afford employment to a large number of people of the State engaged in the maintenance and operation of the facility. In addition, both students and employees would be a source of substantial expenditures in the schools locality, which would react indirectly to the State's benefit. Furthermore, the school is an important part of the national defense program and strengthening of such program is of obvious benefit to the State.

It is concluded that the four conditions requisite to a declaration by the State Lands Commission have been met as follows:

- (1) The acquisition is for the erection of "other needful buildings, or other public purpose within the purview of Clause 17 of Section 8 of Article I of the Constitution of the United States".
- (2) The acquisition has been pursuant to and in compliance with the laws of the United States.
- (3) The United States, through the Chief of the Real Estate Section of the Bureau of Yards and Docks of the Department of the Navy has "assented to acceptance of jurisdiction over the land upon and subject to each and all of the conditions and reservations prescribed". The authority for the execution of this acceptance by the chief of the real estate section of the Department of the Navy on behalf of the United States has not been officially demonstrated. The context of the additional letter forwarded to the Secretary of the Navy by the Commandant of the Twelfth Naval District on December 2, 1949 and proposed to be signed in person by the Secretary of the Navy is such as to meet the conditions prescribed in paragraph (c), Section 126, Government Code.

The following teletype, dated December 20, 1949, addressed to the State Lands Commission is quoted: "Request full commission to act on 21 December 1949 on cession of jurisdiction on line school Monterey California X formal request being made in manner set out in Commandants letter of 2 Dec. 1949 to Budocks."

- (4) The acquisition of the subject lands for the purpose of the establishment and the operation of a post graduate school is in the interest of the State.

Upon motion duly made and unanimously carried, the State Lands Commission determines with respect to those certain lands acquired and now used by the Department of the Navy of the United States for a Post Graduate School, at Monterey, California, said lands being described as follows:

All that land described in Deed No. 1933 dated June 15, 1948 from the Del Monte Properties Company to the United States of America, recorded in Volume 1068, at Page 1, Official Records, Monterey County, California, comprising 603.538 acres, more or less;

that the conditions prescribed in Subdivisions (a), (b) and (c) of Section 126 of the Government Code of the State of California have been found and declared to have occurred and to exist and that such acquisition is in the interest of the State; the State Lands Commission authorizes the Executive Officer to file certified copies of this finding in the office of the Secretary of State and have them recorded in the office of the County Recorder of the County of Monterey, upon receipt by the Executive Officer of an original letter signed by the Secretary of the Navy identical in substance to the letter submitted by the Commandant of the 12th Naval District on December 2, 1949, as filed by the Executive Officer as Exhibit A to his report to the Commission (exclusive of any reference to submission of vouchers).

There being no further business to come before the Commission, the meeting was adjourned.