WASHINGTON'S 1889 LAND LAW -- WHY REPEAL?

Before Washington was admitted to the Union as a state, there was no constitutional or other restriction on the ownership of land by non-citizens. The Territorial Statutes of Washington, adopted in 1864, contained a provision "...that any alien may acquire and hold lands, or any right thereto, or any interest therein....." This provision actually encouraged ownership by non-citizens.

The Constitution of the State of Washington which was framed and ratified in 1878 likewise made no distinction between resident non-citizens and citizens as to the ownership, possession, enjoyment and descent of property.

The Constitution of 1878 had no real life, but the Constitution now in effect in the State of Washington was framed in a Constitutional Convention which met between July 4, 1889 and August 22, 1889. The constitution proposed to this convention, drafted by Hill, contained no prohibition against non-citizen ownership or control.

The general temperament of the Pacific Coast States was anti-Chinese between 1857 and 1889, when Oregon, California and Washington were admitted into the Union. The Oregon Constitution adopted in 1857 contained a direct reference to Chinese and a prohibition against such people holding any real estate or mining claims.

The California Constitution adopted in 1879 contained a direct mandate or instruction to its state legislature to prescribe by law control over non-citizens.

Debates at the Constitutional Convention for the State of Washington were recorded in shorthand but never transcribed. However, newspaper articles published during the convention indicate anti-Chinese sentiment and reports of discussion in the Convention of proposals to "debar aliens from holding land."

Some writers of our legal history even attribute a news article of August 9, 1889, reporting the hanging of a Chinese in Portland, Oregon, for murder, as having something to do with the action taken in the Constitutional Convention.

Nevertheless the final draft of the Constitution for the State of Washington adopted in 1889, contained restrictions against ownership of land by non-citizen individuals and corporations, as Article II, Section 33.

There was no action taken by the legislature of the State of Washington to implement the constitutional restrictions against non-citizen ownership of land until such action was taken in 1921.

Immigrants from the Orient in terms of numbers was greater by Japanese, and the clamor for restrictive action to control economic competition was directed against Japanese.

Similar legislation was passed in the State of California in 1913 and 1920. As the U. S. Supreme Court stated in Oyama vs California (1947), "...the more basic purpose of the statute was to irritate the Japanese, to make economic life in California as uncomfortable and unprofitable for them as legally possible....."

The 1889 Land Law of the State of Washington was tested in the U. S. Supreme Court in Terrace vs Thompson (1923). The Court in this case upheld the Washington statutes against the contention that it violated the equal protection of the 14th Amendment, determining that the statute did not discriminate arbitrarily (a) because all aliens were subject to the same restrictions and (b) that it was in the state's rightful exercise of its police powers.

Since the end of World War II, the states of Utah, Idaho and Oregon repealed their statutes against non-citizen ownership of land by action of their state legislatures.

After World War II in California some 59 escheat proceedings to forfeit land to the state on the ground they were held in violation of such land laws was started. The state was endeavoring to force certain persons to give up their ownership, possession and use of parcels of land because of their Japanese ancestry.

Thereafter the United States Supreme Court (1948) in the Oyama case, held that the law violated the "equal protection clause" as to a citizen son of a non-citizen ineligible to citizenship and the case made considerable doubt on the validity of all of the California land law.

Thereafter in the Fujii case, the California Supreme Court declared such land laws of the state to be unconstitutional. Escheat proceedings were then brought to a halt.

In 1952 the Congress of the United States adopted the Walter-McCarran Act, amending the immigration and naturalization laws of the United States and extending the privilege of becoming naturalized as a United States citizen to all persons regardless of national origin.

The effect of this act was to extend naturalization privileges to Japanese aliens who were the only remaining substantial population group in the United States.

The practical effect, by court decision and the amendment to the naturalization laws of the United States, was to render such restrictions to the ownership of land ineffective.

In California, discriminatory land laws were adopted by initiative and voted upon by its people. Therefore its repeal required a vote once again by the people of the State of California. In 1955 the California State Legislature passed

a referendum proposing the repeal of such land laws in that state and in the 1956 general election, the people of the State of California voted favorably for repeal.

Now the State of Washington is the only state on the Pacific Coast with restrictions on ownership of land by non-citizens.

In Washington, Article II, Section 33 of its Constitution was amended twice. The first time was in 1950 when it was amended to extend the right to hold land in our state to Canadian citizens on a reciprocal basis. In other words, if Canadians permit Washington citizens to hold land in Canada, then Canadian citizens could hold land in the State of Washington.

It was amended the second time in 1954 when the prohibition against the holding of land by non-citizen corporations was struck from this Section. Both of these amendments were voted on favorably by the people of the State of Washington and the Legislature amended the statute law in conformity with the constitutional amendments.

At this time the law of the State of Washington not only has a bitter history of discrimination and oppression and has been rendered effective for most practical purposes, but in addition discriminates now in favor of alien corporations as against alien individuals.

The Washington State Legislature in 1961 voted overwhelmingly to resubmit by Senate Joint Resolution No. 21 for repeal this outdated discriminatory law.

This proposal will be on the ballot to be voted upon by the people of the State of Washington in the next general election to be held on the 6th of November, 1962.

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