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## Eminent Domain—Public Purpose—Golf Course for State University

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and preservation of the improvement by means of excess condemnation is much more liberal. *Pennsylvania Mutual Life Insurance Co. v. Philadelphia*, above; *Hunt Drainage Dist. v. Harness* (1925) 317 Ill. 292, 148 N. E. 44; *Rogers v. Breisacher* (1925) 231 Mich. 317, 204 N. W. 112.

Excess condemnation is used extensively in Europe. REPORT, COMMITTEE ON TAXATION (1915) 53. Today California, Massachusetts, Michigan, New York, Rhode Island, Ohio, and Wisconsin have constitutional provisions for excess condemnation; and Maryland, Illinois, New Jersey, and Virginia have statutory provisions. HUBBARD AND HUBBARD, OUR CITIES TODAY AND TOMORROW (1929). J. G. G., '32.

EMINENT DOMAIN—PUBLIC PURPOSE—GOLF COURSE FOR STATE UNIVERSITY.—The University of Michigan instituted condemnation proceedings against certain lands for a golf course. The course was to be owned by a non-profit corporation whose purpose was the furtherance of the physical well-being of the students at the University but which was controlled by the Board of Regents. *Held*, the University could condemn the land since the purpose is an integral part of the board program of education. *People v. Pommerening* (Mich. 1930) 220 N. W. 194.

The appropriation of lands for public educational purposes is a just exercise of the right of eminent domain. *Board of Education v. Hackman* (1871) 48 Mo. 243. The taking of land adjacent to a school building for a place of recreation and exercise is a taking for a public use. *State ex rel. School District v. Superior Court* (1912) 69 Wash. 189, 124 Pa. 484. Also is the condemning of land for a gymnasium or athletic field. *Kern County Union High School District v. McDonald* (1919) 180 Cal. 7, 179 Pac. 180. In granting the school board the right to condemn land for a high school athletic field as part of an educational institution the court stated, "More properly defined a modern educational institution embraces those things which experience has taught us are essential to the mental, moral and physical development of the child." *Commissioners of Dist. of Col. v. Shannon & Lucks Construction Co.* (D. C. Col. 1922) 17 F. (2d) 219.

The power of a university to condemn lands for a dormitory has been upheld as constituting a public use within the meaning of the constitution. *Russell v. Trustees of Purdue University* (Ind. 1929) 168 N. E. 529. Also has the power to appropriate lands to be used as a lawyers' club and dormitory. *People v. Brooks* (1923) 224 Mich. 45, 194 N. W. 602. In *Knapp v. State* (1914) 125 Minn. 194, 145 N. W. 966, the action of the University of Minnesota condemning land for a railway to connect the University campus and farm to the line of a common carrier was upheld.

In view of the wide approval given by the courts to the condemnation of land for state universities' recreational facilities, the decision in the instant case does not seem to stretch unduly the category of "public uses."

T. L., '32.