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## Real Property—Per Curiam

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Per Curiam

*Eminent Domain*—The Court of Appeals in, *In re Port of New York Authority*,<sup>33</sup> reinstated the decree of Special Term in regard to the award given for two parcels of land condemned by the Port Authority, stating that they were not excessive.

## TAXATION

### Leasehold Interest: Personal Property, Not Subject To Taxation

All real property situate in the State of New York, and not specifically exempted, is taxable by the State.<sup>1</sup> The Tax Law, among other exemptions, provides that "Property of the United States except property subject to taxation under the constitution and laws of the United States" is tax-exempt.<sup>2</sup> However, the Tax Law seeks to reach real property, which would be otherwise exempt under the above provision, where "under a contract of sale or other agreement," between a private interest which had the "use, occupation or possession" of the realty and the United States (or State of New York) which retained the legal title thereto, "whereby upon certain payment or payments the legal title is to be or may be acquired" by the private interests, by taxing such interest in the real property, as real property.<sup>3</sup>

In *Gruman Aircraft Corporation v. Board of Assessors*,<sup>4</sup> a tax imposed under the latter provision was contested by the taxpayer. Petitioner had leased 4400 acres from the United States Government under 34 U. S. C. A. §522.<sup>5</sup> The agreement provided for up to three five-year leases, and that the petitioner should have an option to purchase the property if at any time before termination of the lease the Secretary of the Navy determined that it was "excess to the further needs and responsibilities of the Department," giving due notice thereof to the

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33. 2 N.Y.2d 296, 159 N.Y.S.2d 825 (1957).

1. N.Y. TAX LAW §3.

2. N.Y. TAX LAW §4(1).

3. N.Y. TAX LAW §4(17), prior to amendment, N.Y. Sess. Law 1957, c. 933, §1.

4. 2 N.Y.2d 500, 161 N.Y.S.2d 393 (1957).

5. Repealed by Pub. L. No. 1028, 84th CONG., 2d Sess., c. 1041, §53, 70A STAT. 641 (August 10, 1956). Such leases are now covered by 10 U. S. C. §2667.