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A STUDY OF PROPOSITION 14 OF THE 1964 CALIFORNIA GENERAL ELECTION

A Thesis

Presented to

the Faculty of the Department of Political Science
University of Pacific

In Partial Fulfillment

of the Requirements for the Degree

Master of Arts

by

Arthur Wayne Hartgrave June 1767

This thesis, written and submitted by
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I wish to acknowledge the special help given to me by Dr. Herbert Reinelt, Mr. Reed Robbins, and Dr. Philip Wogaman by allowing me to utilize their files of material on Proposition 14. Their co-operation made it possible for me to write this thesis.

A.H.

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CHAPTER I

INTRODUCTION TO PROPOSITION 14

In the history of California, there have been few ballot measures of a more controversial nature presented to the electorate than the initiative constitutional amendment known as Proposition 14 which appeared on the 1964 General Election ballot.

Proposition 14 was a proposed amendment to the Constitution of the State of California which would prohibit the state, its agencies, and local government from placing limitations on a person's right to refuse to sell or rent his residential property to another person.

This proposed amendment was aggressively argued before the electorate during the summer-long campaign that preceded the November election. Each side vehemently presented its case. Little was left undone to persuade the voters of California to be either for it or against it.

League of Women Voters of California, Pros and Cons (1964 Ballot Measures, San Francisco, 1964), p. 20; and Constitution of the State of California, Article I, Section 26, Paragraph 2, (1965): "Neither the State nor any subdivision thereof shall deny, limit or abridge, directly or indirectly, the right of any person, who is willing or desires to sell, lease or rent any part or all of his real property, to decline to sell, lease or rent such property to such person or persons as he, in his absolute discretion, chooses."

This intense campaign created considerable controversy over the merits of Proposition 14 which far surpassed that generated for any of the remaining sixteen propositions on the ballot. Consequently, sides were clearly drawn and taken throughout California by large numbers of influential groups and individuals over the issues raised by the measure.

The issues centered around whether or not California should repudiate its "fair housing" legislation. Passage of Proposition 14 would prevent these laws from operating in the areas of selling or renting residential property. Defeat of Proposition 14 would allow these laws to function in regards to selling or renting residential property.

The "fair housing" legislation in question was, for the most part, the Rumford Act which was passed by the 1963 California Legislature. This legislation regulated the sales and rental of residential property so as to prevent racial and religious discrimination from occuring. Such discrimination was an illegal act under this law.

The controversy stirred up by Proposition 14 caused it to gain national attention. Its opponents made claim that Proposition 14 went beyond repeal of "fair housing" legislation. This could have been achieved through an initiative referendum. Instead, by constitutional amendment, the measure instituted the right to discriminate in selling or renting residential property. This was an open attack

upon the civil rights of the minorities in California. Its proponents counter claimed that it was a measure to restore to California property owners their right to sell or rent to whomever they choose. This right had been taken away from them by the Rumford Act. The constitutional amendment method was used to prevent a future legislature from enacting another "fair housing" law. Thus, civil rights became pitted against property rights in the ensuing arguments over Proposition 14.

With the United States in the throes of a movement by the Negro race to achieve greater interplay in American life, it was to be expected, then, that considerable nationwide attention would fall upon this particular initiative amendment to California's Constitution. The controversy it raised carried beyond California's borders. It was watched throughout the country to see what would happen to it.

This attention made Proposition 14 unlike its companion measures on the ballot. Because it differed in this manner from the other propositions, this thesis has recorded Proposition 14 and its ramifications, particularly the campaign which enveloped it. While the controversy over this constitutional amendment has not yet been stilled, one particular limitation has been placed upon this thesis. It does not pursue Proposition 14 beyond Election Day, November 3, 1964.

approach to the presentation of Proposition 14. It has not, however, taken the usual chronological listing of events used by most historical studies. Rather, it has examined nine general areas concerning Proposition 14 without particular regard to making an account of events in order of time. Each of the nine areas, instead, has been presented more to give tenor or character to certain phases of the measure than to chronicle events.

Because the intention has been to present tenor and character, considerable use has been made of quotations throughout this study of speeches, advertising, and other campaign media on Proposition 14.

Outside the introductory chapter, each of the nine general areas has been presented as separate chapters in this study. These chapters have been so placed as to give continuity to the study and to present a reference to the time factor.

The nine general areas in order of their presentation are: (1) "The Legislative Background," (2) "The Constitutional Amendment - Proposition 14," (3) "The Proponents of Proposition 14," (4) "The Opponents of Proposition 14," (5) "The Churches and Proposition 14," (6) "The Campaign Arguments for Proposition 14," (7) "The Campaign Arguments Against Proposition 14," (8) "The Election Results," and

(9) "The Reasons Why Proposition 14 Won."

This study has been concluded by an appendix of documents pertinent to Proposition 14 and its controversy.

CHAPTER II

THE LEGISLATIVE BACKGROUND

There were several enactments by the California legislature limiting certain acts of public discrimination which gave impetus to action aimed at curbing certain aspects of this legislation. This action culminated as Proposition 14, a state constitutional amendment designed to remove as law portions of these enactments.

This chapter presents these enactments as background to Proposition 14 for each played a part in its creation. In chronological order, these enactments, the California Public Accommodations Law, the Unruh Act, the Hawkins Act, and the Rumford Act, are analyzed to show their contribution to the making of this constitutional amendment, particularly through their encreachment upon discrimination in the use of private property.

California Public Accomodations Law. The first of a series of laws, the California Public Accomodations Law was enacted in 1886 to prevent discrimination in public accomodations.

After several changes by the legislatures through the years, the accomodations law stated:

All citizens ... are entitled to the full and equal accomodations, advantages, and privileges of inns,

restaurants, hotels, eating houses, places where ice cream or soft drinks of any kind are sold for consumption on the premise, barber shops, bath houses, theatres, skating rinks, public conveyances, and all other places of public accomodations or amusement.

Thus, discrimination was prohibited in a number of specifically named types of business establishments catering to the public in accomodations and amusement. Absent from any mention was the business of real estate sales and rentals, possibly because it was thought to be outside the pale of public accomodations and amusement.

Until it was superceded by the Unruh Act, the California Public Accomodations Law, through its various amendments, was the State of California's policy in regards to discrimination of a public nature.

Unruh Act. Section 51 of the California Civil Code, better known as the Unruh Act, was enacted in 1959 to replace the old public accomodations law.

On its face, the Unruh Act did little to change the law it superceded. It substituted the words "all public establishments of every kind whatsoever" for the former listing of certain businesses. This substitution was a broader terminology than the listing of certain businesses,

¹California Civil Code, Section 51, (1958).

²California Civil Code, Section 51, (1959).

and the courts, consequently, held that the Act prohibited discrimination by real estate brokers.³

Thus, the Unruh Act enlarged the coverage of the law pertaining to public discrimination by bringing portions of the real estate business into its purview. For the first time, the state became interested in discrimination in real estate transactions.

Hawkins Act. Enacted in 1959, the Hawkins Act moved the state into the area of prohibiting discrimination in publically assisted housing. It did not repeal any law but was an extention to existing laws on discrimination.

The housing covered by this act was that financed in whole or in part by a loan insured or guaranteed by any state or federal agency and that exempted in whole or in part from taxes except veteran's exemptions.

The Hawkins Act, though applying only to publicly assisted housing, did much to further widen the scope of the state's anti-discrimination laws. For the first time, a large portion of California's housing came to be under anti-discrimination law. It made housing, itself, the subject of the law's coverage rather than the acts of an agent as did

Burks v Poppy Construction Co., 57 Cal 2d 463 (1962).

⁴ California Health and Safety Code, Division 24, Part 5, Sections 35700 - 35744, (1959).

the Unruh Act.

Inadequacy of the Unruh and Hawkins Acts. While both the Unruh and Hawkins Acts were landmarks in California social legislation, they did not work a noticeable change upon California's housing patterns. Supporters of the two laws were dissatisfied with the results achieved.

The problem was felt to be in the enforcement of the laws. They were too slow, cumbersome, and expensive for the people they were designed to aid. A lawsuit had to be initiated with its high costs and long procedures, and the possibility of losing the suit existed even if it were entered into. Rather than attempt a costly, time consuming, and uncertain legal battle, discriminated people preferred to seek housing elsewhere. 5

Another attempt at alleviating discrimination in housing that did not have these weaknesses was to be made through the legislative process.

Rumford Act. Assembly Bill 1240 of the 1963
Legislative Session was this attempt. It was called the Rumford Act after its author, Assemblyman W. Byron Rumford.

Leonard D. Cain, Jr. (ed.), Absolute Discretion? (Research Bulletin No. 7. Sacramento: Sacramento Committee for Fair Housing, 1964), p. 6.

Basically, the Rumford Act replaced the principal parts of the Hawkins Act. It substituted broader provisions and a completely different method of enforcement.

The heart of the Rumford Act was Section 35720 which stated that it would be unlawful in California to "refuse to sell, rent, or lease ... to or withhold from any group or groups of persons ... housing accomodations because of their race, color, religion, national origin, or ancestry ..."

It also prohibited discrimination of the above type in (1) all publicly assisted apartments in structures of four or more units, (2) all other apartments however financed of five or more units, (3) all publicly assisted, owner occupied, single-unit homes for sale, and (4) housing which is wholly or in part exempt from property taxes except veteran's exemptions. This coverage, it was estimated, applied to 70% of California's housing.

In addition, the Rumford Act prohibited discriminatory practices by real estate brokers and salesmen. 9 In large measure, it also prohibited discriminatory practices by

⁶ California Health and Safety Code, Division 24, Part 5, Section 35720, Sub. 1, (1963).

^{7&}lt;u>Ibid</u>., Sub. 1-6.

⁸League of Women Voters of California, Pros and Cons, (1964 Ballot Measures, San Francisco, 1964), p. 22.

⁹ California Health and Safety Code, Sec. 35710, Sub. 4.

persons and firms engaged in housing or mortgage lending. 10

A unique feature of the Rumford Act was the placing of the enforcement of its provisions under the State Fair Employment Practices Commission rather than the civil courts as did the Unruh and Hawkins Acts. ¹¹ The F.E.P.C. was a state governmental agency appointed by the Governor dealing, for the most part, with discrimination in employment by businesses in the state.

This departure from regular civil law procedure was the deliberate planning by "fair housing" supporters in the legislature to eliminate the cost and delay of civil lawsuits. Placing enforcement under the State Fair Employment Practices Commission made it an easier procedure to seek redress for any illegal acts under the law. It, also, prevented the accused of obtaining a trial by jury which was had under previous law.

A complaint had to be lodged with the Commission concerning the alleged discriminatory act to start enforcement proceedings. If a preliminary investigation indicated just cause, the Commission then attempted to eliminate the discriminatory practice through "negotiation, persuasion,

¹⁰ Ibid., Section 35720, Sub. 7.

¹¹ Ibid., Section 35732a.

and conciliation." If the preliminary investigation indicated no cause, the complaint was dismissed.

In a just cause case where the alleged discriminatory act could not be eliminated, the accused was given a hearing in accordance with the provisions of the Administrative Procedure Act which governs agencies of the state. 13 Also, he could be enjoined by court order from disposing of the housing in question until the hearing was completed. 14

If the hearing concluded that the accused did commit discrimination as defined under the Act, a court order was issued requiring the guilty party to cease and desist and to take one of the following actions: (1) Sell or lease the accommodations to the party lodging the complaint, (2) Sell or lease a similar facility or the next one available, or (3) Pay a damage to the party lodging the complaint not to exceed \$500 if points 1 and 2 are not available.

Both parties could appeal the Commission's decision if it were against them in accordance with the provisions of the Administrative Procedure Act. 16

Essentially, the Rumford Act added to existing laws a broader coverage of housing and of what constitutes

^{12 &}lt;u>Ibid.</u>, Section 35732a. 13 <u>Ibid.</u>, Section 35732b.

^{14 &}lt;u>Ibid.</u>, Section 35734. 15 <u>Ibid.</u>, Section 35738.

¹⁶ Ibid.

discrimination in this area plus the provision for the F.E.P.C. to examine the charges of discrimination.

Curiously, the Act actually provided a lesser penalty for those found guilty of discrimination than provided for under the Unruh Act. Under the Rumford Act, and only as a last resort, was there a monetary fine of \$500.00. Under the Unruh Act, actual damages plus \$250.00 was the penalty for each and every violation of the law.

It was the intent of "fair housing" supporters in passing the Rumford Act to enact a law in which enforcement would be more favorable for those being discriminated against. The Rumford Act would do away with the cumbersome actions of a lawsuit, speed up the obtaining of a decision, and reduce the cost for the person filing the complaint. This, it was hoped, would accomplish the goal of integrated housing in California. What the Rumford Act and the other existing similar laws sought to do was to make race irrelevant in real estate transactions.

Such, however, was not to be the case yet as the real estate industry was already taking steps against "fair housing" by preparing an initiative to place before the

¹⁷ Ibid.

¹⁸ California Civil Code, Section 52.

¹⁹ Cain, op. cit., p. 6.

voters. The initiative would impair "fair housing" legislation and block further attempts to remove the impairment.

CHAPTER III

THE CONSTITUTIONAL AMENDMENT -- PROPOSITION 14

Having examined in the previous chapter the legislation that led to the creation of Proposition 14, this paper will examine in this chapter the amendment itself. The chronological history of the proposition will be traced to present those events important to it. Thus, identification will be given to the background of the amendment. Also, the wording of the amendment will be analyzed for its probable meaning. Thus, identification will be given to the intent of the amendment.

Specifically, the first contemplations for a measure similar to Proposition 14, the initiative referendum petition that proceeded the efforts for a constitutional amendment, the initiative amendment petition that became Proposition 14, the legal recognition of Proposition 14, the probable meaning of the amendment, and the issues raised by it will be treated in this chapter.

First contemplations. The origins of Proposition 114 can be traced back to before the passage by the legislature of the Rumford Act, the law given popular credit for triggering the amendment.

The April 1962, issue of the California Real Estate

Magazine carried a report that showed the California realtors association was thinking about some form of legislation to prevent enactment of "fair housing" laws. This report from the association's legislative committee stated:

Top issue in 1961 and considered most likely to assume that position in 1963 is the so-called 'open housing' issue This issue must be taken to the people before the changing complexion of the Senate permits ... this type of legislation through. When the people understand what is at stake, their legislators will oppose 'open housing' proposals.'

In May, 1963, the California Real Estate Magazine in its Directors' Minutes called for the placing of a Property Owners Bill of Rights into the California Constitution through the initiative process. This Bill of Rights included the two ideas that property owners should not be obligated to require their tenants to accept each other indiscriminately and that property owners should have the right to determine the acceptability and desirability of any prospective buyer of his property.

This same article called for a fund raising movement to place this Property Owners' Bill of Rights before the voters of California by an initiative to amend the State's Constitution "....so that we do not year after year have to

Marjorie Smith, "Directors' Minutes," <u>California Real</u> Estate <u>Magazine</u>, XLII (April, 1962), p. 7.

²Marjorie Smith, "Directors' Minutes," <u>California Real</u> Estate <u>Magazine</u>, XLIII, (May, 1963), p. 18.

fight bills that are eroding the rights of the property owner."

These recommendations within the California Real Estate Association took place before the Rumford Act was passed in June, 1963, by the Legislature. While the organization did not officially act as a body until after the passage of the Rumford Act, the seed of Proposition 14 was thus germinating prior to its passage.

Initiative referendum petition. Upon passage of the Rumford Act, steps against this law were taken by some Californians not connected with the California Real Estate Association. A Robert D. Weinmam, an advertising and political publicity man, organized an initiative referendum campaign during the summer of 1963 to repeal the Rumford Act. 4

The Realtors' Association, though in sympathy with the aim of the campaign, did not join in the effort to gather the necessary voter signatures for the petition. It withheld its support on the grounds that the referendum would only repeal the Rumford Act leaving the Legislature free to pass another such law at a future session. Also, the referendum would

^{3&}lt;sub>Ibid</sub>.

Wallace Turner, "Rightists in West Fight Housing Act," New York Times, May 10, 1964, p. 14.

leave local governmental bodies such as cities and counties free to propose and adopt similar legislation if they cared to. 5

Lacking statewide support and organization, the campaign for the referendum failed to collect the required number of voter signatures on its petition within the time allotted by law.

Initiative amendment petition. In August, 1963, after the initiative referendum failed, the California Real Estate Association, the California Apartment Owners Association, and the California Home Builders Association agreed that an initiative amendment to the State Constitution was needed to restore those privileges taken away by the Rumford Act. They formed a joint committee, Americans For Individual Freedom, to place such an initiative before the people of California.

The Realtors' Association, at their September, 1963, convention in Los Angeles, officially endorsed this action. 7
With this endorsement, it became and remained the most

Vs. Forced Housing (A campaign pamphlet for Proposition 14. Los Angeles: California Real Estate Association, 1964), pp. 5-6.

^{6&}quot;CREA Fights Forced Housing Law," California Real Estate Magazine, XLIII (October, 1963), p. 7.

Margie Smith, "Directors' Minutes," California Real Estate Magazine, XLIV (November, 1963), p. 28.

important sponsor of the initiative amendment.

The initiative amendment petition was filed with the Secretary of State's office in Sacramento on November 4, 1963, by representatives of the California Real Estate Association, the Apartment House Owners Association, and the Home Builders Association. There, it was given the following title and summary:

SALES AND RENTALS OF RESIDENTIAL REAL PROPERTY.
INITIATIVE CONSTITUTIONAL AMENDMENT. Prohibits State, sub-division, or agency thereof from denying, limiting, or abridging right of any person to decline to sell, lease, or rent residential real property to any person as he chooses. Prohibition not applicable to property acquired by State or its sub-divisions; property acquired by eminent domain; or transient lodging accomodations by hotels, motels, and similar public places.

Under provisions of the State Constitution which govern the initiative process, an initiative petition must be signed "... by qualified electors, equal in number to eight per cent of all votes cast for all candidates for Governor at the last preceeding general election, ..." As the 1962 gubernatorial election had 75,853,232 votes cast for all candidates, this meant that the proposed initiative petition had to secure a minimum of 462,259 signatures of registered

^{8&}quot;Housing Initiative Titled; Petitions Gathering Signatures for Public Vote," California Real Estate Magazine, XLIV, (December, 1963), p. 5.

Section 1, (1964).

voters to qualify it for the ballot.

This initiative petition secured more than enough voter signatures to qualify it to be placed before the voters in the coming election. Over 650,000 signatures were filed with the Secretary of State's office by February 5, 1964.

Of these, 633, 206 were accepted as valid by the Secretary of State. This number of signatures was the largest number ever certified for an initiative measure. The next largest was in 1952 when 605,242 signatures qualified a school bond initiative. 12

The realtors' association claimed that over 1,000,000 signatures were collected in behalf of the initiative amendment. The association estimated that with the number of signatures gathered for the first filing along with those collected for a supplemental filing the total number of voter signatures placed on petitions for the proposed amendment exceeded one million. Whether this estimate was accurate or not, the total number of signatures collected did make an

[&]quot;Initiative Drive Meets 1st Deadline; More Signatures Needed for Safety," California Real Estate Magazine, XLIV, (February, 1964), p. 5.

¹¹ Art Leitch, "Our President's Letter," California Real Estate Magazine, XLIV, (March, 1964), p. 3.

^{12&}quot;Petition Signers Set New Record; Qualify Initiative for Public Vote," California Real Estate Magazine, XLIV, (March, 1964), p. 5.

¹³ Ibid.

impressive figure.

Legal recognition as Proposition 14. After the filing of the voter signatures which surpassed the legal minimum, the initiative constitutional amendment was accepted as a legal ballot measure by the Secretary of State. It was designated as the fourteenth proposition on the November, 1964, ballot. It was from this designation that the proposed constitutional amendment became known as Proposition 14.

Probable meaning of Proposition 14. Proposition 14 was not a lengthy document. Compared to the Rumford Act, it was very briefly written in fairly non-technical terms.

Proposition 14 on the November, 1964, ballot read as follows:

The People of the State of California do enact the following constitutional amendment to be added as Section 26 of Article I of the Constitution of the State of California:

Neither the State nor any subdivision or agency thereof shall deny, limit or abridge, directly or indirectly, the right of any person, who is willing or desires to sell, lease or rent any part or all of his real property, to decline to sell, lease or rent such property to such person or persons as he, in his absolute discretion, chooses.

'Person' includes individuals, partnerships, corporations and other legal entities and their agents or representatives but does not include the State or any subdivision thereof with respect to the sale, lease or rental of property owned by it.

'Real property' consists of any interest in real property of any kind or quality, present or future, irrespective of how obtained or financed, which is used, designed, constructed, zoned or otherwise devoted to or

limited for residential purposes whether as a single family dwelling or as a dwelling for two or more persons or families living together or independently of each other.

This Article shall not apply to the obtaining of property by eminent domain pursuant to Article I, Section 14 and 14½ of this Constitution, nor to the renting or providing of any accommodations for lodging purposes by a hotel, motel, or other similar public place engaged in furnishing lodging to transient guests.

If any part or provision of this Article, or the application thereof to any person or circumstance, is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end the provisions of this Article are severable. 14

Until the courts have ruled upon this constitutional amendment, its exact applications and effects will not be known. However, its second paragraph has been interpreted to mean that those portions of the Unruh and Rumford Acts which apply to residential owners, their representatives, and agents are nullified. Also, it has been generally agreed that the amendment profoundly affects in a prohibitive manner the ability of the State, its counties, and its cities to regulate the practice of sales and rentals in housing. 16

Section 26, (1965).

¹⁵ League of Women Voters of California, Pros and Cons (1964 Ballot Measures, San Francisco, 1964), p. 20.

¹⁶ Ibid.

Proposition 14, contrary to considerable popular opinion during the campaign, did not repeal any statute in its entirety. Certain portions of the Unruh and Rumford Acts have apparently become inoperable in certain situations in regards to what they previously prohibited. The amendment has seemed to render unconstitutional those portions which prohibited an owner from discriminating in sales and rentals of housing, but apparently does not affect those portions of the Acts which are severable. 17

More specifically, Proposition 14 appears to have changed California laws and government in at least four ways. It would (1) exempt apartment house owners and tract developers from the Unruh Act of 1959, (2) exempt apartment house owners, tract developers, and those who both own and occupy government assisted housing from the Rumford Act of 1959, (3) prevent the passage of other city, county, or state laws that would regulate sales and rentals of real property, and (4) prohibit the courts from limiting the discriminatory actions of property owners when renting or selling. 18

Issues raised by Proposition 14. Considerable disagreement has existed about what the issues were

¹⁷ League of Women Voters of California, State Current Agenda II (The State's Role in Regulating Sales and Rental of Real Property. San Francisco, 1964), p. 7.

¹⁸ Howard W. Lewis, Jr., An Analysis of Proposition 14, (Mountain View: Aurora Press, 1964), p. 5.

concerning Proposition 14. The summer-long campaign that preceded the November, 1964, election was waged on this disagreement. Each side saw the issues differently. Even today, this dichotomy exists.

Because of this division of opinion, it can be said that twin issues were raised by Proposition 14. Each was related to the other, so much so that one could be said to be the opposite of the other.

For those who favored the amendment, the issue was whether or not an individual property owner had the right to dispose of his real property without governmental interference. A property owner should have the freedom to choose the buyer or renter of his property as he saw fit without having to answer to a government bureau for his choice. 19

For those who opposed the amendment, the issue was whether or not it was a proper function of government to seek to guarantee equal access to housing for minority group people. Government should have the right to pass laws making race irrelevant in the real property transactions in which public money is involved or in which business enterprise is operative. Real estate agents, subdivision builders, and apartment house managers should not be allowed to

¹⁹ Art S. Leitch, "The Initiative - Its Purpose and Progress," California Real Estate Magazine, XLIV, (April, 1964), p. 5.

discriminate because of race. 20

For both, on their own issue, the answer was a resounding "yes." Likewise, on their opponents issue, the answer was a just as resounding "no."

A real and honest disagreement existed concerning the issues. What was the relationship between the people who already possessed a home and wanted to sell or rent it and the potential buyer or renter who wanted access to that neighborhood?

No person was bound by the Rumford Act to sell or rent his real property to any other person. But, when he placed it for sale or rent upon the open market, did he have the right to refuse to sell or rent to a potential buyer because of race or color, religion, national origin, or ancestry? The Rumford Act said that in most cases he did not. When a person sought to dispose of real property, that property became more public than private, and as such was subject to governmental regulations for the betterment of society as a whole.

Proposition 14 contended that the seller or landlord and the buyer or renter deal together on a basis of mutual

Leonard D. Cain, Jr. (ed.), Absolute Discretion? (Research Bulletin No. 7. Sacramento: Sacramento Committee for Fair Housing, 1964), p. 6.

²¹ <u>Ibid.</u>, pp. 6-7, 22-23.

consent. Both have the right to accept or reject each other as well as the terms of sale or rent. But, above all, the property owner must have the freedom to choose the buyer or renter of his property as he saw fit. 22

Seemingly, the issues, by majority vote of the people in favor of Proposition 14, have been decided to the effect that government should not infringe upon the right of the property owner in selecting to whom he shall sell, lease or rent. The final decision, however, will be made by the courts as they rule upon the amendment.

²² Leitch, loc. cit.

CHAPTER IV

THE PROPONENTS OF PROPOSITION 14

Compared with the opponents of Proposition 14, those publicly favoring the constitutional amendment were far fewer in numbers and, for the most part, lacked the stature within their communities of their opposition. But they did present a militant and effective front for promotion of the amendment and will be examined in this chapter.

This chapter will list the more important among the amendment's supporters. A major grouping will be made with a short analysis of the supporters making up this grouping.

Major supporters of Proposition 14. Those organizations of more than minor importance in the influencing of California thought which openly choose to support Proposition 14 and to work for its passage were the following: (1) the California Real Estate Association, the California Apartment House Owners Association representing the real estate and housing businesses; (2) the California Republican Assembly and the United Republicans of California representing the political organizations; (3) the Los Angeles Times and the Oakland Tribune representing the newspapers; (4) the American Council of Christian Churches representing the religious organizations; and (5) the Committee for home Protection and

the Committee for Yes on Proposition 14 representing the volunteer groups.

California Real Estate Association. Of the three real estate and housing groups that supported Proposition 14, the California Real Estate Association was the most important. While the other two aided it, the realtor's association was the prime mover behind the constitutional amendment. Without the realtors' efforts, there undoubtedly would have been no Proposition 14.

The real estate group secured, for the most part, the record breaking number of signatures that placed it on the November, 1964, ballot. It carried out, again for the most part, the campaign to put over Proposition 14. It should be noted, however, that the realtors were not unanimously in favor of the amendment. Many members of the California Real Estate Association worked for the defeat of the measure as well as for its passage. However, the organization's members, for their own reasons, mostly went along with C.R.E.A.'s endorsement of Proposition 14.

During the campaign, the C.R.E.A. was severely criticized for its sponsorship of Proposition 14. It was felt by many that the realtor's association was out of step

Leonard D. Cain, Jr. (ed.), Absolute Discretion? (Research Bulletin No. 7. Sacramento: Sacramento Committee for Fair Housing, 1964), pp. 5, 21-22.

with the times. Rather than opposing "fair housing" legislation, the C.R.E.A. should have, instead, supported those laws aimed at ending housing discrimination.

Such beliefs were, however, overlooking the C.R.E.A. history of supporting the right of property owners to practice discrimination in selling and renting their real property. As far back as 1927, the C.R.E.A. gave advice in its California Real Estate Magazine on how to best draw up restrictive covenants for excluding non-Caucasians from white areas. 2 In the 1930's and 40's many local C.R.E.A. boards had Race Restriction Committees which functioned for the purpose of preventing racially mixed residential areas from occuring. 3 After the 1948 United States Supreme Court decision of Shelly vs. Kraemer wherein the Court held that no contract which discriminates on race or color would be given enforcement in state or federal courts, the C.R.E.A. in its magazine told how to secure restrictions on ownership or occupancy which would not violate the Court's ruling.4 In a 1958 article, the following was stated, "... although it may be a legal right for a non-Caucasian to buy into any neighborhood, ... it is just as much a legal right of an owner to select the person to whom he will sell."5 A 1963 article on

^{2 &}lt;u>Ibid.</u>, p. 7.

⁴ Lbid., p. 10.

^{3&}lt;u>Ibid.</u>, pp. 8-9.

⁵<u>Ibid.</u>, p. 12.

the defeat of the Berkeley housing ordinance said that depriving one group of its basic right to own and control property was not the way to enhance the rights of another group. These selected examples show that the C.R.E.A. had for more than thirty years prior to Proposition 14 been a firm believer in and supporter of the right to discriminate in housing.

The California Real Estate Association Statement of Policy which was published in October, 1963, outlined very specifically that organization's firm opposition to any encroachment upon this right. It stated:

The California Real Estate Association reaffirms that it will at all times use its resources and efforts to defend and preserve the constitutional right of every person in the United States to acquire, to occupy, and to dispose of real estate without government dictation as to who shall buy, who shall occupy or who shall sell, and to oppose the enactment of laws at any level of government, directed at the curtailment of these inherent rights.

It was only natural, then, that the C.R.E.A. instituted Proposition 14 as a means to limit government dictation through "fair housing" laws of the disposition of real estate. For it not to have done so would have been out of keeping with its past history and public pronouncements. The C.R.E.A. was continuing its role as spokesman and

⁶ Ibid.

^{7&}quot;Statement of Policy," California Real Estate Magazine, XLIII, (October, 1963), p. 8.

representative for the interests of property owners which it had long assumed for itself.

However, as the realtors represented only a segment of California's business community, the California Real Estate
Association stood out as a minority of that community
advocating Proposition 14's passage.

California Republican Assembly. The California Republican Assembly, the largest California Republican organization, gave its conservative blessing to Proposition lip at a special convention held in Milbrae. A resolution worded in favor of the constitutional amendment was submitted to the delegates present. They voted in favor of the resolution by an eighty percent majority.

However, this conservative political group represented a minority of the voters in predominately Democratic California. It was debatable whether it represented a majority in the faction-ridden Republican Party of California. At most, the California Republican Assembly wielded limited influence with the majority of California voters.

United Republicans of California. The United Republicans of California, a small splinter group of

Letter to the Editor in the Los Angeles Times, October 4, 1964, from Nolan Frizzelle, Fresident of the California Republican Assembly.

ultra-conservative Republicans, submitted a resolution in favor of the initiative amendment petition to its member units throughout the state. These units voted in a ratio of 85 to 1 for the resolution.

Even less than the California Republican Assembly's, the United Republicans' influence did not extend much beyond its own membership. As a definite minority of members within its own political party, this group was not instrumental in influencing the California voter.

The Los Angeles Times and the Oakland Tribune. Over twenty daily newspapers in California recommended the defeat of Proposition 14. However, these did not include two of California's largest newspapers, the Los Angeles Times and the Oakland Tribune, which publicly endorsed the constitutional amendment and editorialized for its passage. 10

The Los Angeles Times, being California's largest daily newspaper, undoubtedly carried more influence with the voters than the Tribune. The Times dominated the southern half of the state circulationwise while the Oakland Tribune faced the combined opposition of the nearby San Francisco Chronicle and the San Francisco Examiner. Thus, the northern

^{9&}quot;Petition Drive Meets Public Favor," California Real Estate Magazine, XLIV, (January, 1964), p. 4.

Editorial in the Los Angeles Times, October 18, 1964; and an election article in the Oakland Tribune, Nov. 1, 1964.

half of the state tended not to receive newspaper support of Proposition 14.

American Council of Christian Churches. Most of the churches and religious organizations of California opposed Proposition 14. Those churches that did support the amendment were, for the most part, members of the American Council of Christian Churches in California.

This religious body represented a conservative element within California's religious community. It claimed to speak for 15 denominations when it announced its support for the initiative amendment petition. 11

As an organization influential within the religious community, the American Council of Christian Churches lent little to promote Proposition 14 with the California voter, inside or outside the community. It tended to be more of a gadfly to the larger church groups opposing the measure.

Committee for Home Protection. Organized as a joint committee to work for passage of Proposition 14 when it was in its petition stage by the realtors' association, the California Apartment Owners Association, and the California Home Builders Association, the Committee for Home Protection was primarily composed of people whose occupations were in

¹¹ California Real Estate Magazine, (January, 1964), p.4.

the areas of housing and real estate. It became the official committee for promoting the passage of the proposed constitutional amendment.

This committee established local committees throughout the state. Together, the parent committee and the local committees carried on a unified campaign to educate the voting public to their way of thinking on Proposition 14. Considerable amounts of advertising were purchased in local newspapers for promoting the amendment. Speakers were provided to community groups that requested them. In this way the committee took its case to the people.

Undoubtedly, the Committee for Home Protection did influence a large number of voters with its campaign. As a contributing factor toward the passage of Proposition 14, it must be given considerable credit to that end.

Committee for Yes on Proposition 14. Because the Committee for Home Protection lacked a broad membership, its creators established another group that would attract Californians outside the housing and real estate fields. This was the Committee for Yes on Proposition 14 to Abolish the Rumford Forced Housing Act.

^{12&}quot;Citizens Form Statewide Committee to Help Proposition 14 at the Polls," California Real Estate Magazine, XLIV (September, 1964), p. 5.

The membership of this committee was to include businessmen, doctors, lawyers, clergymen, housewives, public figures, and civic leaders. In Short, much citizens were to be included that would tend to give stature to Proposition 14.

It was hoped that the prospective members would be recruited from that $12\frac{1}{2}\%$ of the state's registered voters who had already signed the petitions to qualify the initiative amendment for the ballot. 14

Like its companion committee, the Committee for Home Protection, the Committee for Yes on Proposition 14 formed local groups throughout the state. A unified campaign was waged by them for Proposition 14 with ads run in local newspapers and speakers provided when requested. The impact of this campaign probably equaled or surpassed that of the Committee for Home Protection. At any rate it was valuable to the passage of Proposition 14.

Motives of the proponents. Why did the few citizens and groups which endorsed Proposition 14's passage do so? What motivated them to take what appeared to be a definitely unpopular stand that conflicted with the social movement of the times? Any answers, of course, will be speculative. However, reasons not given are often as important, if not

^{13&}lt;sub>Ib1d</sub>.

more so, than the ones publicly stated. Some reasons do not lend themselves to campaign use.

First, as Proposition 14 was to negate the Rumford Act, California's "fair housing" legislation, it seems most probable that many Californians who supported the amendment did so because they were simply against the objectives of such laws. That is, many citizens were not in favor of having minorities and non-whites being able to move into all-white neighborhoods. A recent study of San Francisco's housing problems has showed that many home owners in that city do not want non-whites as neighbors. 15

Involved in their objections was the belief that intermarriage, increased crime rates, and a lowering of property standards occur following neighborhood integration. 16 Thus, by supporting Proposition 14, these people hoped to keep their neighborhoods all white.

Second, another but closely related reason was the fear that property values fall when neighborhoods become integrated. Studies have shown that economic reasoning is a greater cause for discrimination than outright prejudice in

¹⁵ Trevor Thomas, San Francisco's Housing Market -- Open or Closed?, San Francisco: Council for Civic Unity, 1964, p. 10.

^{16&}lt;sub>Ibid</sub>.

areas outside the South. 17 Many Californians undoubtedly supported Proposition 14 because of this economic fear. Proposition 14 would enable them to keep their neighborhood and house values from dropping, thereby causing them an economic loss.

Those whose livelihoods depended upon the housing industry, builders, apartment house owners, realtors, and lenders, probably were particularly motivated by the economic factor in supporting Proposition 14. The San Francisco housing study showed this to be a prominent factor in their opposition to integration of housing. They all voiced a fear of economic loss on their part if neighborhoods were to be racially integrated. The builders feared that white families would stop buying in large numbers into their tracts if non-whites moved in. There would not be enough minority families to buy the remaining houses. ¹⁸ Apartment house owners feared that their white tenants would object to non-whites as fellow tenants. ¹⁹ The realtors feared losing business and reputations if they introduced minorities into white neighborhoods. ²⁰ The lenders felt that their mortgages would be

^{17&}quot;The Challenge of Open Occupancy," House and Home, (November, 1962), p. 93.

¹⁸ Ibid.; and Thomas, op. cit., p. 22.

¹⁹ Thomas, op. cit., p. 35.

²⁰ Ibid., pp. 7, 14.

endangered on property adjacent to newly integrated areas, that non-whites were questionable borrowers because of poor credit risks, and that their depositors might possibly withdraw savings if they made it a policy to make loans to first-entry non-whites. 21

These economic fears would explain why many of these particular businesses were involved in supporting Proposition 14.

Third, the California Real Estate Association became the prime mover of Proposition 14 probably to a great extent because of its assumed role as representative for the white property owners of California.

In this role the realtors kept the neighborhood pattern as it was racially. They did this in their belief that, according to the San Francisco housing study, the white residents did not want non-whites in their neighborhoods and that non-whites depreciated surrounding property values. 22 Thus, they acted in behalf of the white neighborhood property owners and residents when they helped to maintain neighborhood patterns.

Through Proposition 14, the C.R.E.A. hoped to re-establish the means for keeping racial patterns. The Rumford Act had taken away this means by prohibiting racial

^{21 &}lt;u>Ibid.</u>, p. 29.

^{22 &}lt;u>Ibid., p. 14</u>

discrimination in housing, Proposition 14 would permit such discrimination.

Fourth, and last, there existed a political philosophy among many Californians, as among citizens of the other states, that opposed civil rights legislation. A nationwide survey by Louis Harris at this time showed that while a majority of Americans approved such laws, about one-third did not. ²³ The population of California could have probably been similarly polled.

In California these people most likely would have been in opposition to the Rumford Act which was civil rights legislation enacted at the state level. This would have made them supporters of Proposition 14.

This was particularly true of those Republicans who supported Senator Goldwater for the Presidency. On a national basis, a majority of Goldwater Republicans tended to be pessimistic about race relations. They opposed the right of civil rights advocates to conduct demonstrations, opposed the 1964 Civil Rights Act, opposed Negro goals, and in general felt that civil rights progress was too fast. 24

California Republicans who supported Senator Goldwater would have been similarly disposed. To them, Proposition 14

²³Louis Harris, "Division on Rights Pointed Up by GOP," Los Angeles Times, July 20, 1964, p. 3.

²⁴ Ibid.

was a means wherein they could oppose the civil rights movement.

In short, the pace and scope of the Negro protest movement provoked resistance to integration among many people. 25 In California, their only legal tool against the Rumford Act was Proposition 14. Thus, they supported it.

These motives do not solely explain why Proposition 14 garnered supporters. However, they were among the most primary not given publication during the campaign.

²⁵ Herbert H. Lyman and Faul B. Sheatsley, "Attitudes toward Desegregation," Scientific American, CCXI (July, 1964), p. 16.

CHAPTER V

THE OPPONENTS OF PROPOSITION 14

In contrast to the supporters of Proposition 14, the opponents of the proposed constitutional amendment appeared to be many in number, encompassed a broad range of business and professional areas, and, for the most part, were influential, if not throughout the state, within their own communities. For these reasons the opponents of Proposition 14 are a necessary group to examine in this paper.

This chapter will list the more important among the amendment's opponents. A major grouping will be made with an analysis of sub-groups and their contribution toward the goal of defeating Proposition 14.

Major opponents of Proposition 14. Those organizations, businesses, and individuals of wide importance in the State of California opposing passage of Proposition 14 were as follows: (1) Civic groups -- the American Association of University Women of California, the American Friends Service Committee, the Association of California State College Professors, the Association of Elementary School Administrators, the California Federation of Teachers, the California Labor Federation, the California State Board of Education, the California Teachers Association, the International

Brotherhood of Teamsters, the League of Women Voters of California, and the Young Women's Christian Association: (2) Religious groups -- the Northern California and Oakland Catholic Dioceses, the Southern California and Northern California Councils of Churches, the Northern and Southern California Board of Rabbis, the Presbyteries of Los Angeles, Riverside, Santa Barbara, and San Francisco, the Synod of California of United Presbyterian Church, the Episcopal Diocese of Los Angeles, the Lutheran Church Missouri Synod, the Northern California and Southern California-Arizona Conferences of Methodist Church, and the Christian Community Concerns, Department of Southern California Baptists and Northern California Baptist Convention Board; (3) Human relations organizations and Ethnic groups -- the Anti-Defamation League, the Chinese American Citizens Alliance, the Community Relations Council of Southern California, the Congress of Racial Equality, the American Civil Liberties Union, the Japanese American Citizens League, the Mexican American Political Association, the National Association for the Advancement of Colored People, and the Urban League; (4) Daily newspapers -- the Berkeley Gazette, the Sacramento Bee, the Santa Barbara News-Press, the Stockton Record, the San Francisco Chronicle, the San Francisco Examiner, the Sunnyvale Standard, and the Palo Alto Times; (5) Religious leaders -- Archbishop Joseph T. McGucken and Bishops Hugh A.

Donoghue, Leo T. Maher, Floyd Begin, and Alden Bell of the Catholic Church, Bishops Clarence R. Haden, James A. Fike, and Sumner Walters of the Episcopal Church, Bishops Gerald Kennedy and Donald H. Tippett of the Methodist Church, Rabbis Marvin Bornstein, Alvin I. Fine, Saul B. White, Joseph Glaser, and Sanford Rosen of the Jewish faith, Dr. Carl W. Segerhammar of the Lutheran Church in America, and Presbyter Robert D. Bulkley of the Presbyterian Church; and (6) Political and civic leaders -- Governor of California Edmond Brown, Lt. Governor Glenn Anderson, United States Senators Pierre Salinger and Thomas Kuchel, State Attorney General Stanley Mosk, Speaker of the Assembly Jesse Unruh, President Pro Tempore of the State Senate Hugh Burns, State Controller Allen Cranston, Mayor of Los Angeles Samuel Yorty, Mayor of San Francisco John Shelley, Chairman of the Republican State Central Committee Caspar Weinberger, State Real Estate Commissioner Milton Gordon, prominent businessman Cyril Magnin, Joseph Eichler, Lloyd Hanford, Henry Teichert, Floyd Lowe, Ralph Lewis, Earle Vaughn, and Daniel Collins, actor Marlon Brando, and author Eugene Burdick.

In addition to the above organizations, businesses, and individuals, there existed a number of volunteer

Californians Against Proposition 14, 1958: Right-to-Work 1964: Bigotry (A campaign leaflet against Proposition 14. San Francisco: Californians Against Proposition 14, 1964).

organizations which played an active role against Proposition ll. The more important of these were the following:
Californians Against Proposition ll, California Committee for Fair Practices, California Realtors for Fair Housing,
Committee for the Preservation of the Rumford Act, Fair Housing Advertisement Committee, and the Youth Committee Against Proposition ll.

Civic groups against Proposition 14. As the listing above has indicated, there were a large number of California civic organizations that took a public stand against Proposition 14. Each worked independently with its own campaign to convince California voters to vote against the proposed amendment.

Each group worked against Proposition 14 in numerous ways. Many of them analyzed the "fair housing" laws and Proposition 14 and published results which were in favor of the housing laws. Others attacked Proposition 14 as a bad measure and presented arguments to substantiate their charge. All of them distributed innumerable pieces of literature to educate the voters as to why they opposed it. That their efforts did not pay off at the polls probably was no fault of their own.

Religious groups against Proposition 14. The churches of California and their respective organizations were almost

solidly against Proposition 14. All the major faiths and their related organizations with sister churches of their faith and all inter-denominational associations took public stands against Proposition 14. Only a few churches and some church people favored the amendment or remained neutral on the controversy raised by the measure.

It was the churches that became the principal opposition to Proposition 14. The churches saw a moral evil in the measure and lost no time in informing the public of this. From pulpit to newspaper, the churches carried their charge to congregation and general public alike.

As with the civic groups, the churches failed to influence their congregations and the general public to the degree that might have been expected. On this particular issue, the churches failed to convince the California voter of their views as to the evil of Proposition 14 to such an extent that some admitted they failed woefully.²

The following chapter will deal with the churches and Proposition 14 in more detailed fashion because the extent of the churches' opposition to the measure deserves enlarged treatment.

Human relations organizations and Ethnic groups.

Because the state's human relations groups have been largely

Niels J. Anderson, "Proposition 14 and the Liturgy," America, CXI (November 21, 1964), p. 658.

interested in promoting harmonious racial relations through integration of the races in housing patterns in California, it was natural for them to oppose Proposition 14 which would allow segregated housing to continue. Ethnic groups in the state have been highly conscious of discrimination practiced against them in the matter of housing and, consequently, opposed Proposition 14.

Their influence was probably greatest among their own membership and groups. What influence they extended beyond these boundaries was most likely minimal.

Daily newspapers against Proposition 14. Outside of the Los Angeles Times and the Oakland Tribune, most of the larger California daily newspapers such as the San Francisco Chronicle and the San Francisco Examiner opposed Proposition 14. Californians Against Proposition 14, a volunteer organization, claimed over twenty California newspapers were opposed to the measure.

These newspapers editorialized continuously against the measure throughout the campaign. To just what degree they influenced the California electorate is not known.

However, considering that these newspapers went everyday of

³Californians Against Proposition 14, Test Yourself (A campaign leaflet against Proposition 14. Los Angeles: Californians Against Proposition 14, 1964).

the campaign into homes of potential voters against Proposition 14, they presented the opposition to the amendment with one of its better opportunities to secure votes. Whatever votes these newspapers did secure proved to be too few.

Religious leaders against Proposition 14. Since the churches and their respective organizations were generally against Proposition 14, their leaders and spokesmen were also against it. The two became almost synonymous during the campaign. The religious groups took official stands against the proposed amendment, and their leaders gave voice to this opposition by carrying the attack to the public through all available means from pulpit to newspaper.

These leaders waged a strong campaign. They were able to line up an impressive opposition to Proposition 14. A more formidable array was not to be had even by the United States Presidential aspirants in their campaign. Newspapers, civic leaders, prominent citizens, and organizations of every nature joined with the religious leaders to defeat the proposed amendment. That they failed to win at the polling booths was not for lack of effort by them.

Political and civic leaders against Proposition 14.

Probably, a more impressive group of citizens could not have been mustered for the campaign against Proposition 14. A more notable array of such political and civic leaders had

not been gathered before under one banner as there was in this particular campaign.

Due to its controversial nature, Proposition 14 cut across political lines. Both Democratic and Republican politicians opposed it. The issues it raised along racial lines were such that most politicians cared not or could not find merit worthy of support in the measure. Consequently, only a few Republican groups publicly favored its passage. For the most part, political notables and groups condemned its intent.

Similarly, most civic leaders lined up against it and urged its defeat.

In a normal situation, the opinions of these people would have been beneficial in aiding a cause in California. But, as with others mentioned who opposed Proposition 14, the public chose to disregard what they had to say on the measure. The California voter went to the polls unswayed by their arguments.

Californians Against Proposition 14. Of the many volunteer groups formed to combat Proposition 14, the one titled Californians Against Proposition 14 was the most important of all. It was the official campaign committee

formed to direct the attack against the measure.4

This particular committee was an instrument through which the churches attempted to present their case to the public. Likewise, it handled the nonsectarian arguments against the proposition. It acted as the general clearing house for all official actions against Proposition 14.

However, it was not the sole committee functioning in the campaign against the proposed amendment. There were numerous others representing many different opposing groups. Each functioned for the most part independently, but it was the Californians Against Proposition 14 that worked as the unifying organization.

Motives of the opposition. Why did such an outstanding array of citizens and groups come forward in opposition to Proposition 14? Any answer to this question will be, of course, speculation. As in determining the motives of the proponents, their publicly spoken word must be taken along with what was not said. Some reasons do not lend themselves to campaign use.

First, the national scene undoubtedly influenced many Californians to become active against Proposition 14. It has been noted that the nation at this time was in the throes of

⁴Philip Wogaman, "California Churches in the Aftermath of Defeat," The Christian Century, LXXXII (February 3, 1965), p. 139.

American life. Considerable support had been generated in California for this goal. Many people sincerely felt that the Negro race, to the detriment of both black and white, had been left out of the mainstream of American life for too long. Any practice that tended to perpetuate this condition was not to be tolerated or allowed to continue. The Negro race had to be brought into the mainstream, even at the cost of forcing changes in formerly accepted practices, such as discrimination in housing.

When the California Real Estate Association Instigated Proposition 14, these people saw it to be a step backward in the area of desegregating housing and in bringing the Negro race into America's mainstream. Thus, it was a measure that should not be allowed to succeed at the polls. Consequently, they organized against the proposed amendment.

Second, the controversy created by Proposition 14 undoubtedly forced many Californians to take a public stand against the measure which, otherwise, they probably would not have done. In light of the very large vote for Proposition 14, many people evidently voted privately for the measure

⁵B. T. McGraw, "Equal Opportunity in Housing - Trends and Implications," Phylon, XXV (Spring, 1964), p. 5.

⁶ <u>lbld</u>., p. 8.

while having condemned it publicly as an individual or as a member of an organization that did. The fear of being called a bigot or anti-Negro made them endorse the movement to block Proposition 14.7

Third, the church leadership placed itself and their congregations in opposition to Proposition 14 probably to a great extent because of the recent religious development of involving churches in social action. Disturbed by the growing lack of church influence on the Twentieth Century, much of the church leadership has felt that the role of the church must be altered from its traditional one of strictly spiritual guidance. As a consequence, the church in recent years has become interested in social, political, and economic matters which a few short years ago were outside its area of interest.

For those church leaders who advocated the idea of getting the religious community more involved in matters of society, Proposition 14 was an ideal issue. It presented an opportunity to put the church in step with the times as a protester against society's inequities. A considerable setment of the religious community was, therefore, led into

⁷George N. Crocker, "Prop. 14 Victory," San Francisco Examiner, November 8, 1964, Sec. II, p. 3.

^{8&}quot;On Social Action Committees," Christianity Today, VIII (September 25, 1964), p. 40.

opposition against the measure. Proposition was attacked as a moral, social, political, and economic issue by much of the Catholic, Protestant, and Jewish leadership. 9

Fourth, and last, there existed a political philosophy among many Californians, as among citizens of the other states, that favored the enlargement of governmental powers to cope with certain social problems. These people, concerned about minorities, slums and their occupants, and the constant problems arising from ghetto areas, believed "fair housing" laws to be a necessary extension of governmental powers if these problems were to be solved. They endorsed the Rumford act and its goals. They had to oppose Proposition 14 as it would reduce and restrict governmental powers in the very area where they felt governmental enlargement and broadening of powers were needed.

These motives do not solely explain why Proposition 14 found a large opposition. However, they were among the most primary not publicized during the campaign.

The San Francisco Conference on Religion and Race, What Has Your Religion to Do with Voting NO on Proposition 14 (A campaign pamphlet against Proposition 14, San Francisco: The San Francisco Conference on Religion and Race, 1964).

McGraw, op. cit., pp. 6-7, 12; and an editorial in Sacramento Bee, May 11, 1964.

ll Editorial in the Sacramento Bee, January 4, 1964.

CHAPTER VI

THE CHURCHES AND PROPOSITION 14

No issue, political or moral, in recent years so galvanized into action the entire religious community of California as did Proposition 14. The churches, with only a few exceptions, took a vigorous stand either for it or against it. Most of them opposed the proposition. First, they attempted to persuade voters not to sign the initiative amendment petition when it was being circulated early in 1964. Failing there, the churches launched an all-out attack upon Proposition 14 that did not cease until Election Day.

So concerted was this attack, the religious community became the chief foe of Proposition 14. It, more than any other body, was the driving force against the measure. For this reason, this chapter will present the role played in the campaign against Proposition 14 by the churches of the major faiths in California. Since the public statements and actions of the leaders of these churches tended to be or to reflect their church's official stand on this controversial measure, considerable use of quoting will be made throughout the chapter so as to reflect more accurately the attitude of the religious community on Proposition 14.

The Catholic Church. As early as December 23, 1963, the western edition of the New York Times carried a signed

advertisement bearing the name of Archbishop Joseph McGucken of San Francisco along with the names of religious leaders of every major faith calling for the withdrawal and defeat of the initiative to cancel California's fair housing laws.

In August, 1964, the Catholic bishops of California in an open letter admonished their flocks to remember that the Catholic Church knows no distinction of race, color, or nationality. Because of this, Catholics in California "... must work with energy and perseverance to provide for all, ... decent and proper housing ..." in the spirit of Christian love. 2

This epistle, while not referring to Proposition 14 by name, was generally assumed to reflect against it. When asked whether the bishops were thinking of the Proposition, Bishop Alden J. Bell told reporters the letter was "a general guiding statement that could be applicable to any problems or conditions that promote discrimination."

Other Catholic leaders spoke out more pointedly and with greater clarity against Proposition 14. In a sermon

Advertisement in the New York limes, Western Edition, December 23, 1963.

^{2&}quot;A Prayerful Admonition on Race From California's Bishops," The Monitor, August 27, 1964, p. 1.

³Dan L. Thrapp, "California Catholic Bishops Assail Racial Discrimination," Los Angeles Times, August 28, 1964, p. 1.

given at St. Callistus' Church of El Sobrante, California, on December 22, 1963, The Reverend G. V. Kennard, S. J., had this to say:

The Catholic Church does not enter lightly into the political arena of a free, self-governing people.

... But there come times of crisis when political decisions before the people are so momentuous, so charged with moral imperature, and when the enemies of Christian morality are so powerful, so clamorous, so deceitful, so confusing, that Bishops and clergy can no longer be content with expounding moral premises but must go on to draw their conclusions and say to their Catholic people plainly and decisively that such a course is wrong.

Catholics of California are today caught up in just this kind of crisis, and the Catholic Bishops of California, true to their teaching mission, are not about to let their people be deceived.

The proposed amendment is wrong in principle, wrong in method, and wrong in motive.

... There can be no doubt, however, that as Catholics and as loyal Americans we are obliged, each in his own way, to see to the defeat of the Realtors' amendment.

In a pastoral letter from Rome dated October 22, 1964, and published by the official newspaper of the Archdiocese of San Francisco, Archbishop Joseph T. McGucken called to the 750,000 Catholics' in the San Francisco Archdiocese attention

The Reverend G. V. Kennard, S. J., The Church Says No! To The Realtors (A sermon against Proposition 14. San Francisco: Californians For Fair Housing, 1963), pp. 1, 2, 26.

his interpretation of Proposition 14.

Church in the Archdiocese. It sternly reminded Catholics that "... racial discrimination and Christian love cannot abide together in the Christian heart." In succinct language the Archbishop further stated that Proposition 14 would prevent anything being done about racial and religious discrimination in housing. He also pointed out that inequality in the opportunity to enjoy decent housing based solely on race was a public violation of the Divine command, "Thou shalt love they neighbor as thyself." Therefore, it was the duty of each citizen "... to vote according to an enlightened conscience, motivated by Christian principles."

In a pamphlet titled "Catholics and Proposition 14" published by Catholics Against Proposition 14, a committee of the Western Conference of the National Catholic Conference on Inter-racial Justice, which appeared during the campaign, the Proposition was attacked as being un-Christian, un-American, subversive to our republican system, and striking at the very heart of the American principle of justice for all. This

Archbishop Joseph T. McGucken, "Archbishop's Letter on Christian Justice and Love," The Monitor, October 22, 1964, p. 1.

Catholics Against Proposition 14, Catholics and Proposition 14 (A campaign pamphlet against Proposition 14. San Francisco: Catholics Against Proposition 14, 1964).

was as harsh an attack upon Proposition 14 that was ever made against it during the campaign.

In another Catholic campaign pamphlet titled "Pope John Said:," the personal opinions of five California bishops on Proposition 14 were given along with the following statement:

Catholics in California now are faced with a proposed amendment to our state constitution that is clearly contrary to the social teachings of our bishops and Popes. Justice and charity demand that we oppose Proposition 14 because it would place in the California constitution an un-Christian and immoral concept of private property.

Thus was the tone of the Catholic Church in California concerning the controversial Proposition 14. For the most part, the Church was stridently opposed to the proposed amendment. However, this consensus was not unanimous. There were Catholics and Catholic leaders who did not agree that Proposition 14 was morally wrong and therefore contrary to the teachings of the Church.

One outstanding Catholic leader who was outside the Church's consensus on Proposition 14 was James Francis Cardinal McIntyre of Los Angeles. Cardinal McIntyre declined to comment on the Proposition, saying it was a political,

The Sacramento Catholic Council on Human Relations, Pope John Said: (A campaign pamphlet against Proposition 14. Sacramento: The Sacramento Catholic Council on Human Relations, 1964).

rather than a moral or religious issue. This failure to denounce the proposed amendment caused critical comment to be raised against him by civil rights groups. Criticism, too, came from within the Catholic Church.

The Reverend William H. DuBay, one of Cardinal McIntyre's priests, wrote a letter to Pope Paul VI calling upon his Holiness to oust the Cardinal for malfesance in office and for failure to exercise moral leadership on racial issues. 9 No such action was forthcoming from the Pope.

Also, there was organized during the campaign a Catholics for Yes on 14 Committee. This group charged that the Catholic clergy had exerted political pressure on the laity "... under guise of promoting social justice." The charge was denied by The Reverend Eugene Boyle of San Francisco, Chairman of the Archdiocesan Commission on Social Justice, by noting that major spokesmen for all leading Protestant and Jewish faiths publicly opposed the Proposition. This demonstrated that a moral issue was involved. 11

The Jewish faith. Soon after the start of the initiative for the amendment, Rabbi Albert M. Lewis,

⁸ Dan L. Thrapp, op. cit. 9 Ibid.

News item in <u>San Francisco Examiner</u>, September 18, 1964.

¹¹ Ibid.

President of the Western Association of Reform Rabbis, stated in a letter to the President of the California Real Estate Association that the initiative was "... contrary to the religious ideals of brotherhood, justice and equality and would set back the long term efforts of Rabbis ... to translate these values into practical application in life." In addition, Rabbi Lewis informed the California Real Estate Association that should the Realtors pursue the initiative, the Western Association of Reform Rabbis would mobilize their congregations against it.

The Northern California Board of Rabbis expressed a similar opinion that the Proposition ran counter to the religious traditions of Judaism. 13

Late in the summer, the Jewish Community Relations Council sent a strongly worded statement on Proposition 14 to all Jewish organizations in San Francisco, Marin County, and the peninsula area.

The Jewish Community Relations Council feels that there are some unusual dangers present in Proposition 14 which should be brought to the special attention of all members of the Jewish community.

Proposition 14 would do more than wipe the state fair housing law off the books. It would freeze into

Letter from Rabbi Albert M. Lewis to Mr. Arthur Leitch, January θ_{\bullet} 1964.

News item in the <u>Jewish Community Bulletin</u>, August 21, 1964.

the State Constitution a prohibition against any state or local public body ever doing anything about the problem of housing discrimination.

The passage of Proposition 14 would openly legitimize and encourage religious and racial discrimination.

The Jewish Community Relations Council feels strongly that - as Americans, as Californians, and as Jews - we have a vital stake in the defeat of Proposition 14.14

The consensus of Jewish leadership was strongly against the passage of Proposition 14.

Council of Churches in Northern and Southern

California. Like their Roman Catholic and Jewish counterparts,

Protestant leadership was, for the most part, militantly

against the proposed amendment to the State Constitution.

From pulpits, public meetings, and publications, the

Protestant ministry spoke out in condemnation of Proposition

14.

The Council of Churches in Northern and Southern California, representing over twenty different Protestant denominations in the state, pitted these groups against the measure.

In a pamphlet entitled "The Church Says No on Proposition 14," the Council of Churches listed ten questions

¹⁴ Ibid.

with answers that presented its arguments against the amendment. The ten questions and answers argued that Proposition 14 would allow "... discriminatory practices in denying equal access to housing be written into our state constitution." The pamphlet also stated that law is "... a proper instrument for the implementation of justice and equal opportunity in human society." It concluded by urging every individual to vote no on the amendment. 15

This pamphlet was only one of many similar ones that were given statewide distribution by this association of Protestant churches. Each pamphlet placed the Council of Churches and its member groups in opposition to Proposition 14.

In another group movement aimed at Proposition 14, most Protestant ministers throughout California on Sunday, October 23, 1964, spoke from their pulpits on the moral and ethical considerations related to the proposed amendment. This was part of a "Keep California Fair Week" that ran from October 18th to 25th in which there was a statewide emphasis upon fair housing by the Protestant churches. 16

California, The Church Says No On Proposition 14 (A campaign pamphlet against Proposition 14. San Francisco: Councils of Churches in Northern and Southern California, 1964).

Dick Hart, "Parson to Person," Grace Notes.
Stockton, California: Grace Methodist Church, October 16, 1964, p. 1.

Individual statements and actions by the major Protestant churches on Proposition 14 echoed those made by the Council of Churches.

The Episcopal Church. The Episcopal Diocese of California organized an active campaign of its own to combat Proposition 14. "It is time," said Bishop James A. Fike when announcing the campaign, "that we saw clearly the sin involved in the destruction of persons for the protection of private property." 17

The campaign was to move the Episcopal Church "... alongside other religious and secular organizations, notably the Roman Catholic and many Protestant groups, in the forefront of the battle."

The September issue of Church and State, a periodic news bulletin of the Episcopal Church, was entirely devoted to the issues raised in California over Proposition 114 and "fair housing." In it a number of Episcopal leaders of California stated their opinions on the issues. The most condemning article, however, was an unsigned piece which stated:

California citizens will be called upon this November to choose between legalized bigotry, or the continuation

¹⁷ News item in the <u>San Francisco Chronicle</u>, August 29, 1964.

¹⁸ Ibid.

of orderly progress in the field of intergroup relations. The issue involves not only Californians but the nation as a whole and approval of this Amendment will set off a chain reaction which may well establish a precedence for similar action in other states. The California Real Estate Association (CREA), as part of a national campaign to put Real Estate Associations in a position outside control of laws, has placed an initiative Constitutional Amendment on the California ballot this year. The Amendment would deny to the State legislature, or any local legislative body, the power to enact laws controlling the sale of rental or real property.

The major effect of this amendment would be to create a new kind of property right - which has never existed before - and vest it in the hands of real estate promoters, tract developers and landlords. It would give them the absolute right to sell or rent to anyone, 'as he in his absolute discretion, chooses.' Such 'discretion' can, and probably will, result in selective discrimination against Catholics, Jews, Greeks, Philipinos, Mexican-Americans, Negroes and anyone else whose exclusion could conceivably satisfy the prejudices of the seller.

This concept is alien to our state and our nation. It is not dignified by legal status in any state - not even Mississippi - in the United States, and in no nation in the western world.

Thus was the attitude of the Episcopal Church in California on Proposition 14.

The Methodist Church. In a one sheet enalysis of Proposition 14 written by the Committee on Human Relations and Economic Affairs of the Northern California-Nevada Conference, it was stated that "... the only 'right' that

^{19&}quot;The Facts About... Proposition 14," Church and State, II (September, 1964), p. 5.

Proposition 14 would restore to property owners is the 'right' to discriminate on the basis of race, color, religion, or nationality." 20

Both the Northern California-Nevada and the Southern California-Arizona Conferences of the Methodist Church passed resolutions against the proposed Constitutional amendment.

One article of the resolutions which passed both Conferences read,

We believe that all considerations of property rights must be guided by a primary concern for human dignity and justice, and that the personal right to buy or rent without racial or religious discrimination must take precedence over the personal right to sell or lease with such discrimination...²¹

All churches belonging to the two Conferences were urged to inform their congregations on the moral and ethical reasons for opposing the Proposition and to send contributions to the Californians for Fair Housing Committee for its work in opposing the measure.

This was the attitude of the Methodist Church in California on Proposition 14.

Committee on Human Relations and Economic Affairs, Simplified Analysis of Proposition 14 (A one sheet analysis of Proposition 14. San Francisco: Committee on Human Relations and Economic Affairs of the Northern California-Nevada Conference, 1964).

Darrell D. Thomas (ed.), The Journal, The California-Nevada Annual Conference of the Methodist Church (San Francisco: Methodist Fublishing House, 1964), p. 143.

²² Ibid.

The United Presbyterian Church. The Church and Society Committee of the Los Angeles Presbytry sent a letter to the Board of Directors of the California Real Estate Association when it met at San Diego in January, 1964, notifying the Board that the churches of the Los Angeles Presbytry opposed the initiative the Realtors were supporting. 23

In session at Los Angeles in June, 1964, the Synod of California of the United Presbyterian Church recorded its opposition to the proposed amendment and urged every member church to work actively against the initiative. 24

United Presbyterian minister and a member of the Stanford
University faculty, listed eight explicit reasons explaining
why Proposition 14 had to be defeated. These eight reasons
were reiterative of arguments made against the measure during
the summer-long campaign by its many opponents. In
concluding his article, Mr. Brown called upon those clergymen
who had not yet committed themselves against the Proposition

Letter from Cyrus B. McCown, Chairman, Church and Society Committee of Los Angeles Presbytry to California Real Estate Association Board of Directors, January 3, 1964.

²⁴ Civil Rights Committee, Excerpts From Denominational Statements (A mimeographed campaign pamphlet against Proposition 14, Los Angeles: The Council of Churches in Southern California, 1964), p. 1.

to take such a stand. He castigated those who refused to do so with these words:

Let it be said clearly and bluntly: any Protestant minister, Jewish rabbi or Catholic priest who equivocates on the issue of Proposition Fourteen has surrendered his claim to moral leadership in the community where he works. Churchmen who are not forthright in condemnation of Proposition Fourteen can no longer expect to be taken seriously on other issues. 25

This was the attitude of the United Presbyterian Church of California on Proposition 14.

Other Protestant churches. Numerous other Protestant churches came out in opposition to Proposition 14. All of them saw the measure in the same light and issued similar warnings and appeals on the issues that were raised.

However, the Frotestant churches, too, had a lack of unanimity in their ranks concerning Proposition 14. There were maverick churches that refused to condemn the amendment. While few in numbers, they were quite vocal which probably made them appear to be numerous. The following quotations are taken from this particular group of churches.

The American Council of Christian Churches. The largest church organization to endorse Proposition 14 was the American Council of Christian Churches, a fundamentalist organization representing fifteen denominations. On December

²⁵ Robert M. Brown, "Spotlight on California," The Christian Century, LXXI (September 30, 1964), p. 1204.

17, 1963, the Council passed a resolution which stated in part:

The initiative petition sponsored by the California Real Estate Association should be supported by every citizen who is concerned with the preservation of our constitutional rights.

.... To pit so-called 'human rights' against property rights as if the former override the latter is a specious and misleading argument. If property rights go, all rights go.

.... The people have a right to vote on such a controversial issue as the Rumford Act. The opposition of the Southern California Council of Churches, the NAACP, and the Community Relations Conference of Southern California to the initiative petition raises serious questions as to the sincerity of their professed devotion to democratic government.

United Community Church of Glendale. A number of Protestant churches individually carried on campaigns to aid the passage of Proposition 14 at the polls. One of the most active of these was the United Community Church of Glendale. This church published numerous articles upholding the viewpoint that Proposition 14 should receive a favorable vote. These articles were given wide distribution throughout the state, especially in southern California.

William McBirnie, Senior Minister of the United Community Church stated in one such publication,

News release of December 26, 1963, by the Committee For Home Protection, 117 West 9th Street, Los Angeles 15, California.

.... Make no mistake about it: Socialism is the issue, the only issue, the decisive issue, involved in the Rumford Act. If the masses of the people were really aware of what socialism is, the dangers it represents, and the wretched moral evil involved in it, the Rumford Act would not stand beyond November 1964.

.... But, contrary to socialist propaganda, which has even succeeded in hoodwinking many idealistic clergymen, the issue is not really a race issue. It is an issue as to whether human rights can be separated and arranged in an order of importance. The socialists will stop at nothing to convince people that the

Rumford Act is 'merely a law for the relief of the racial and religious minorities.' This is, of course, not true.27

First Baptist Church of Burbank. Another church which carried on an active pro-Proposition 14 campaign was the First Baptist Church of Burbank, California. It, too, published a large number of articles which received wide circulation.

The Reverend Paul Peterson, pastor of the First Baptist Church, had this to say about the whole issue of churches and civil rights:

Churches and denominations which have been swept into this all absorbing preoccupation with Civil Rights legislation have foresaken the way shown by the Gospel of Christ. By their constant agitating and pressing for more and more restrictive measures on the majority of the people, they are confessing that they have lost faith in the power of the Gospel

William McBirnie, "An Urgent Message from Dr. McBirnie," Why You Should Vote Yes on Proposition 14 (Glendale, California: United Community Church, 1964), pp. 5-6.

of Christ to change men from within and thus inevitably change outward social relationships. Legalism in the area of human relations always destroys and enslaves man because of his sinful nature; it is Grace that sets men free. 20

There were other churches and other clergymen who argued in similar veins as the three examples quoted above. Some worked individually while others, such as the Committee of One Thousand Clergymen for Social and Political Conservatism, pooled their efforts. Just how effective they were in this campaign would be a matter of conjecture.

Reverend Paul Peterson, The Rumford Act, Communist or Christian Inspired? (Burbank, California: A campaign pamphlet in favor of Proposition 14 published by the First Baptist Church of Burbank, 1964).

CHAPTER VII

THE CAMPAIGN ARGUMENTS FOR PROPOSITION 14

The supporters of Proposition 14 presented a field of arguments that evidently was more convincing to the voters of California. This chapter will present the aspects of the major arguments used in behalf of the measure to show the nature of the campaign waged by its proponents.

The tenor of the "legalistic," the "rebuttal," the "majority has rights," the "unfair tactics and coercion employed by the opposition," and the "nature of the 'fair housing' law enforcement" arguments will be examined in this chapter by use of examples taken from the campaign.

Legalistic arguments. While the churches and other opponents of the amendment stressed the moral issues raised by it, the supporters of the measure tended to argue their case upon legalisms. Other issues were used, but the majority of the arguments used in behalf of Proposition 14 were legalistic in nature.

A campaign leaflet which was given statewide distribution by the Committee for Yes on Proposition 14 listed six such arguments. These were: (1) A yes vote would restore to property owners the right to choose the person to whom they wished to sell or rent, (2) A yes vote would

abolish those provisions of the Rumford Act which took away the freedom of choice in selling or renting residential property, (3) A yes vote would amend the State Constitution so that future legislatures could not take away this freedom of choice without a vote of the people, (4) A yes vote would halt the Fair Employment Practices Commission from harassing and intimidating the public and property ewners in the exercising of their freedom of choice, (5) A yes vote would end state police power over the selling or renting of privately ewned residential property, and (6) A yes vote would restore rights basic to freedom - rights that permit all persons to decide for themselves what to do with their own property.

This leaflet stressed the "freedom of choice" and restoration of "rights" as did most other legalistic presentations.

The <u>Manteca Bulletin</u>, a small California newspaper supporting Proposition 14, in an October editorial stated:

This issue has nothing to do with racial feelings in our opinion. Should the people of California have the right to handle their property as they see fit or should they no? It is interesting to note that it has always been assumed that this right of the property owner is inviolate.

Committee for Yes on Proposition 14, Californians Should Have the Freedom of Choice (A campaign leaflet for Proposition 14. San Francisco: Committee for Yes on Proposition 14, 1964).

However, this right was suddenly lost with the passage of civil rights legislation, and in particular the Rumford Housing Act of 1963. It is also interesting to note that people interested in restoring this right - a right which had always been understood by all - are now being villified as people who are somewhat twisted and warped in their thinking. We all realize, of course, that we have some grave social problems in this country and in this state. We contend, however, that taking away some basic and fundamental constitutional rights from everyone, regardless of color, is no way to solve a social problem.

"Freedom of choice" and "rights" were, likewise, the central theme to this editorial.

In a Los Angeles debate early in February, the legalistic case was presented in somewhat different terminology when William K. Shearer who was speaking for Proposition 14 said, "The people have the right to discriminate if they want to. We may question their wisdom to do so, but not their right."

Again, the "right" was stressed with its implications of legality.

The <u>San Francisco Examiner</u> in an October article discussing the pros and cons of Proposition 14 stated this legalistic argument as part of the argument for the measure.

Article I, Section I, of the state constitution, which guarantees the right of all persons to acquire, possess and protect real property, has never been interpreted to require an owner to sell to someone other than a voluntary choice.

² Editorial in the Manteca Bulletin, October 26, 1964.

³Article in the Los Angeles Times, February 12, 1964.

Proposition 14 would permit an owner's discretion to include race, but, this private discretion is inherent in the ownership rights of property, and the fact is itself guaranteed by the 14th Amendment.

Here, the proponents of Proposition 14 presented the measure as having Constitutional legality, both state and federal.

Much of the legalistic argument stemmed from a majority opinion of the United States Supreme Court in the 1963 case of Peterson vs. Greenville following a lunch-counter sit-in demonstration.

Freedom of the individual to choose his associates or his neighbors, to use and dispose of his property as he sees fit, to be irrational, arbitrary, capricious, even unjust in his personal relations, are things all entitled to a large measure of protection from governmental interference.

This liberty would be overridden in the name of equality if the strictures of the (lith) Amendment were applied to governmental and private action without distinction.

Using this part of the Court's opinion, the proponents of Proposition 14 were able to imply that what they were attempting to do through the measure was certainly a legal endeavor. The people were entitled to use and dispose of their property as they saw fit. They could even practice discrimination while doing this if they so desired. It was

Article in the San Francisco Examiner, October 18,

Speterson vs. Greenville, 373 US 244.

legal. The Supreme Court of the United States had so stated in this particular case.

Proposition 14, the proponents claimed, would not call upon the state to enforce private prejudice. It would merely require it to remain neutral. The measure would deprive no one of life, liberty, or property, nor would it deny equal protection to anyone.

This was the tenor of the legalisms that were used to promote the cause of Proposition 14 during the campaign.

It was a legal measure that would restore "freedom of choice" and allow the people of California to practice the "rights" they had before passage of the Rumford Act.

Rebuttal arguments. Because of the all out attack against Proposition 14, much of the energy and tactics of those working for the measure were of a defensive nature. Many of the arguments for the proposed amendment were, therefore, actually rebuttals to arguments presented by those against it.

The Manteca Bulletin, in rebuttal, stated:

There are several arguments used against Proposition 14 which are not altogether correct. It is said, for instance, that this proposition would forever tie the hands of the Legislature in this field of housing. This is not correct, since the Legislature can always refer this back to the people in the form of a constitutional

San Francisco Examiner, October 18, 1964.

amendment, just as it now does on a great many matters. It is also possible for the people to place this subject on the ballot again via the initiative measure.

Proposition 14 does, of course, make this whole procedure difficult and cumbersome to change and it does prevent the Legislature from passing additional housing legislation of the Rumford Act type by a simple vote of the legislators. We see nothing evil in this - Proposition 14 was designed to prevent the Legislature from passing more legislation of this type in view of its past record of passing such laws under political pressure.

In a Town Hall debate in Los Angeles, William Shirer, public relations director for the initiative amendment campaign, disclaimed his opponents argument that a right to acquire property should be considered equally with the right to dispose of property.

"The prospective buyer," said Shirer, "has no vested right in property until an owner is ready to part with it to a person to whom he is willing to let it go."

The contention that the right to acquire property was as paramount as the right to dispose of property faced Proposition 14's proponents throughout the campaign of 1964. It was an argument that was not easily disposed of by use of legalisms.

Perhaps the most convincing argument presented to oppose it appeared in a paperback book which contained a

Mentece Bulletin, October 26, 1964.

ELOS Angeles Times, February 12, 1964.

number of articles by different authors on the controversial Proposition 14. This was an article by John Denton, Head of the University of California, Berkeley, Business Administration Extension. He stated:

If we were considering personal property rather than real property - say pick-up trucks rather than apartment buildings - equal rights for all buyers might have a solid legal basis. Free enterprise economics is predicated on the right of all buyers to have equal access to economic goods placed on the open market and there are many laws to enforce this right. Anti-trust laws specifically require suppliers, for example, to treat all buyers equally. But buyers of real estate have no such right, and there is no argument by anology since the law of real property is not rooted in the economics of the industrial revolution as is the law on the marketing of most other economic goods.

As can be seen, this rebuttal of equal rights for buyers of real property is based upon legalities, the method most used to defend Proposition 14.

Another rebuttal argument used by the supporters of Proposition 14 was the charge that the Rumford Act was not a well thought-out piece of legislation as was claimed by fair housing advocates. To the contrary, stated those in support of the Proposition in their rebuttal argument, the Rumford Act was passed by a legislature ignorant of too many necessary facts for it, the Rumford Act, to be well thought-out.

John Denton, "Perspective on Race and Property,"
Race and Property (Berkeley: Diablo Press, 1964), p. 5.

In support of this charge, Senate Resolution 267 was used as evidence. This resolution was passed on the same day that the Rumford Act was passed. It stated that the legislature had never studied the nature and causes of racial prejudice or its ramifications and that such a study should be made. If this was the case, the Proposition's proponents charged, then the legislature had to be ignorant of many facts needed in order to pass intelligently upon the Rumford Act, a measure designed specifically to deal with racial discrimination in housing.

Beginning early in the campaign, opponents of the proposed Constitutional amendment stated that the voters of California were not competent for various reasons to decide the issues raised by Proposition 14. To counter this attack, rebuttal arguments had to be made. One such rebuttal argument was an editorial in the Encinitas Coast Dispatch, a newspaper supporting Proposition 14, which stated in part:

The subject itself is controversial and it will be logical to expect some violent pros and cons should the measure qualify for the ballot. It is difficult now to relate the hysteria from some state officials, the NAACP, some of the clergy and various other groups over placing this measure on the ballot for the voters to decide.

A number of quaint reasons are being offered for suppressing this initiative measure. Governor Brown,

¹⁰ Senate Journal (Sacramento, California: June 21, 1963), p. 4725.

for instance, seems to indicate that the people of California are not competent to pass judgment on this measure. Which is strange, since we recall that Pat Brown felt the electorate of this state showed exceedingly good judgment and intelligence when he was elected governor.

An even quainter reason was submitted by Brown when he warned ... that the initiative may be unconstitutional.

Now this is strange legal contention - that it is unconstitutional for the people to exercise their constitutional right of placing an initiative measure on the ballot.

We agree with the opponents of the initiative that this issue on the ballot will stir up a lot of race problems. That is both unfortunate and unnecessary, but the fact that it will is no argument against such a measure, since basic freedoms have never been easily won and are often equally difficult to defend.

Perhaps the hardest argument to refute that supporters of Proposition 14 faced was the contention that the Proposition flew into the face of human rights. Opponents of the proposed Constitutional amendment claimed that the measure placed property rights over human rights. This was not so the measure's proponents rebutted.

The Realtors' association in its monthly magazine ran an editorial on this subject which stated the following opinion:

... some people have lost sight of the fact that the

Editorial in The Encinitas Coast Dispatch, January 23, 1964.

right to own property and to control one's destiny with it, is a human right. We hear it said that human rights are more important than property rights; but history teaches that without freedom to own and dispose of real property as conscience dictates, man has lost everything precious to him. During the days of Feudalism, a man was a serf or vassal to the lord who owned the land. What a man could do in that period of the Dark Ages, depended entirely upon the whim of those who governed. It took sacrifice, vigilance, courage and determination to overcome such a system, and it shall take the same qualities to keep the American's heritage intact today.

Another attempt to rebut the charge that Proposition 14 placed property rights over human rights was given in an article published in <u>The California Statesman</u>, a conservative monthly newspaper published in San Diego. The article quoted Assemblyman E. Richard Barnes on this subject as saying, "Human rights and property rights are inseparable; they go hand in hand." 13

All of the rebuttals concerning the charge that property rights were placed over human rights by Proposition 14 stressed the idea that the management of real property by its owner was a human right and could not be divisible from it. To take away this right of management, as did the Rumford Act, was to limit the practice of human rights, rather than enlarge upon it as claimed by opponents of

¹² Ken Stuart, "Editorial," California Real Estate Magazine, XLIV (March, 1964), p. 1.

[&]quot;Human and Property Rights Not Severable," The California Statesman, March, 1964, p. 1.

Proposition 14.

Majority has rights argument. A presentation made in behalf of Proposition 11 was the contention that "fair housing" laws trammeled upon the rights of the majority. Whether or not advocates of these laws were aware of it, the majority of the people, as well as the minorities, had rights, and these rights should not be shunted aside.

showed that a majority of the people were against "fair housing" legislation. And in a democratic society, the will of the majority must prevail. If the majority is enslaved to the will of the minority, the result is dictatorship. If the ideal of government of, by, and for the people was to be achieved, then the wishes of the majority must be upheld and respected by the politicians. Ih

Using this idea in somewhat different form, the California Real Estate Magazine stated the following in an April, 1964, article:

Approval of the initiative will also guarantee that in the future such freedom of choice may not be taken from the residential property owner without his consent. This is causing cries of anguish from the opposition. They are already protesting that if they want to take

Speakers Resource Manual in Support of the Initiative Constitutional Amendment (A compilation of arguments for Proposition 14. San Francisco: The Statewide Committee for Home Protection, 1964), p. 13.

that freedom from the individual in the future, they will once more have to take the issue to the people for a simple majority approval at the polls.

These protests are revealing of the attitude of those who favor forced housing legislation. They are not interested in consent of the people. They are interested in control of the people. 15

Denial of consent in this article equates with the denial of rights to the majority in order to bestow certain other rights to the minorities.

The Los Angeles Times had this to say about the issue of rights in a February editorial:

One of man's most ancient rights in a free society is the privilege of using and disposing of his private property in whatever manner he deems appropriate.

We do not question the good faith of those who would abrogate this privilege. But we do feel, and strongly, that housing equality cannot safely be achieved at the expense of still another right. 18

This was the tenor of those arguments which stressed the idea that the majority, too, had rights which should be respected. To restrict the rights of the majority so as to benefit the minority was at best a questionable practice. Since those championing the minorities would take away the majority's rights in regards to selling and renting private real property, Proposition 14 had to be passed to prevent

Progress, California Real Estate Magazine, XLIV (April, 1964), p. 5.

¹⁶ Editorial in the Los Angeles Times, February 2, 1964.

this from occuring.

Unfair tactics by our opponents argument. Certain tactics used by those opposing Proposition 14 gave its supporters ammunition to use in its behalf.

One suggested campaign speech for the proposed amendment which was distributed by the Committee for Home Protection dealt considerably on this issue. As unfair tactics, the speech listed three basic practices employed by opponents of Proposition 14. These were: (1) the power of the state government being used to defeat the measure, (2) pressure tactics by Governor Brown and his Administration against the supporters of the proposed amendment, and (3) threats of violence and economic reprisals by the civil rights groups. 17

Numerous examples were given for each charge. Most of the examples were given considerable coverage during the campaign by supporters of the Proposition in their attacks against the tactics used by their opponents.

One example used in the suggested speech which was used often during the campaign was a quotation taken from a letter sent by State Senator Thomas M. Rees of Los Angeles County to several California realtors urging them to reverse

Speakers Rescurce Manual in Support of the Initiative Constitutional Amendment, pp. 7-14.

their stand in favor of the amendment. Speaking of the initiative effort, he said:

I think your honest appraisal of this action would indicate to you that if continued, it can only result in: (1) increased racial tensions and strife in the State of California; (2) retaliatory measures that surely will come from members of the Legislature as they will regard your action as a repudiation of the prerogative of the Legislature to pass laws in the State of California.

Supporters of Proposition 14 used this letter to ask what kind of government existed in California when a legislator threatens retaliation against citizens for the exercise of their constitutional right.

In a lengthy article appearing in <u>The California</u>
Statesman, State Senator Jack Schrade accused Governor Brown and his aides of violating the state law in attempting to bribe and coerce Realtors into dropping the initiative amendment and in mis-use of state monies in campaigning against Proposition 14. Senator Schrade cited the following as examples of unfair and illegal activities by Governor Brown's administration against the measure: (1) The State Real Estate Commission use of state funds to actively promote opposition to Proposition 14, and (2) The State Department of Industrial Relations use of state paid postage and stationery to attack Realtors on Proposition 14.

^{18&}lt;sub>Ibid.</sub>, p. 8.

^{19&}quot;Governor's Aides Misuse Funds In Anti-Initiative Campaign," The California Statesman, March, 1964, p. 1.

In like vein, The Encinitas Coast Dispatch had this to say in an earlier editorial comment on interference of Proposition 14 by Governor Brown and his administration:

Now we don't quarrel with Governor Brown's right, or any other person in or out of public office, to take a position against the measure. We question the right of any public official, however, to use public funds and public machinery to defeat any ballot measure. That public funds are being used can be seen in the number of comments in various state publications and news releases from state bureaus on this subject. Regardless of their private feelings, these people have no business using official funds and materials to combat what happens to be a definite right of the people. 20

Such were the attacks upon the tactics of state agents and agencies opposing Proposition 14. The attacks were bitter against the alleged illegal use of state machinery and funds to prevent the people from exercising their initiative rights and of pressure tactics designed to coerce supporters of the Proposition into dropping it. This type of opposition to Proposition 14, claimed its supporters, was unfair, if not illegal, and coercive in nature.

Fair housing law enforcement. Many arguments for Proposition 14 were attacks upon certain aspects of the enforcement peculiarities of the Rumford Act. The Rumford Act, differing from previous similar legislation, placed enforcement of its provisions in the Fair Employment

Editorial in The Encinitas Coast Dispatch, January 23, 1964.

Practices Commission, a governmental agency whose members are appointed by the Governor, thus by-passing the usual civil court procedures to determine the guilt or innocence of an accused party.

One speaker's guide for Proposition 14 stated that the Rumford Act destroyed the concept of equal privilege under the law. It provided the investigative power, the hearing body, and the penalty at no cost to the complainant, making it remarkably easy for the complaining party to seek justice. The defendant is pitted against the power and the pocketbook of the government. He cannot hope to compete. The complainant and the defendant did not have equal status under the law. 21

A pro-Proposition 14 advertisement which was given wide circulation during the campaign used the Rumford Act's enforcement to promote the amendment. It listed five items to refute the term "fair housing" used in conjunction with the Rumford Act. These were: (1) Trial without jury before a board of political appointees (para. 35730 and Sec. 1414 of Labor Code), (2) Accused is guilty until proved innocent at his own expense (para. 35734), (3) Guilty party has no appeal to a constituted court of law allowing trial by jury

The Realtor's Position on the Initiative Constitutional Amendment (A speech for Proposition 14. Bakersfield: Bakersfield Realty Board, 1964), p. 10.

(para. 35738), (4) Guilty party may be fined up to \$500 and the money given to the informer as a reward (para. 35738), and (5) Law provides no protection against professional informers seeking reward money.²²

In a June speech to the California Real Estate
Association, past President L. H. Wilson made the following
remarks concerning the enforcement of the Rumford Act:

The Rumford Act establishes a new principle in our law, that State appointed bureaucrats may force you, over your objections, to deal concerning your own property with the person they choose. This amounts to seizure of private property.

Under the Rumford Act many persons refused by a property owner may charge discrimination. The owner must defend himself, not because he refused, but for his reason for refusing. He must defend himself for his alleged unlawful thought. A politically appointed commission ... becomes investigator, prosecutor, jury and judge. It may obtain and utilize the services of all governmental departments and agencies against you. It allows hearsay evidence. If you cannot prove yourself innocent, you can be forced to accept your accuser as renter or tenant or pay him up to \$500 damages. You may appeal to a court, but the judge only reviews the F.E.P.C. record. If you don't abide by the decision, you may be jailed for contempt. You are never allowed a jury trial.²³

All other similar arguments against the Rumford Act by supporters of Proposition 114 stressed the fact that there

²²An advertisement in favor of Proposition 14 appearing in the Stockton Record, October 21, 1964.

²³Address by past President L. H. Wilson to the California Real Estate Association Directors' Meeting, Los Angeles, California, June 27, 1964.

existed no provisions for jury trial, the accused was being tried not for his act but for the reason behind the act, and that this constituted a dangerous deviation from acceptable American legal patterns. The Rumford Act had to be removed in such a manner so that it could not reappear through legislative action.

CHAPTER VIII

THE CAMPAIGN ARGUMENTS AGAINST PROPOSITION 14

The opponents of Proposition 14 did not convince the voters of California to reject the proposed constitutional amendment. Their arguments failed to sway a sufficient number of voters to the opposition's point of view on the issues involved. This chapter will present the aspects of their major arguments to show the nature of the campaign waged against the measure.

The tenor of the "moralistic," the "misleading," the "racial strife," the "damage to the state's economy," the "property rights not absolute," the "let Rumford Act prove itself," the "unsound law," and the "backed by extremists" arguments will be examined in this chapter by use of examples taken from the campaign.

Moralistic arguments. When Proposition 14 was in its early stages in 1963, the religious community of California took alarm. The churches and the clergy examined the measure and found it morally lacking. As the opposition to the amendment grew, others took up the moral arguments against it. Soon this became the major attack against Proposition 14 and remained so throughout the campaign.

The moral argument based itself on the idea that Proposition 14 ran counter to Hebrew Christian traditions and teachings and was, therefore, unacceptable legislation.

In general the religious community argued this point of view through the Christian concepts of loving they neighbor and that all people are creatures of God and are equal in his sight. Since people, regardless of race, religion, or nationality are equals, individuals should be treated on a basis of individual worth and not on a basis of his color, his religion, or his nationality.

"Fair housing" laws assured that people would be treated on such a basis. Thus, they were Christian laws.

Proposition 14 would allow unequal treatment of people to occur on the basis of race, religion, or nationality. Thus, it was un-Christian and should not pass.

Simple Christian ethics on man's relationship to man called for the defeat of Proposition 14.

This argument was jointly subscribed to by the major religious faiths in California. The following is an excerpt taken from an interdenominational pamphlet using this frame of argument. It was used to promote the defeat of Proposition 14 by being circulated mostly in the San Joaquin Valley area of California.

Property rights are not absolute. It is the duty of the government to intervene at a certain point: namely, whenever persons are denied reasonable access to the conditions necessary for participation in the life of community ... Moreover, we believe that nobody else can be fully human in a society which denies the humanity of any of its members. From this perspective,

which we believe to be rooted in the deepest well-springs of the Hebrew Christian tradition and of civilized political thought generally, the present widespread existence of racial discrimination in housing cannot be tolerated by the government of a democratic people.

U.S. Senator Thomas Kuchel, Republican, stressed the moral issues involved in Proposition 14 when he announced his opposition to the measure. In part, he said:

By establishing a California policy of discrimination in real estate sales, Proposition 14 would ... undermine the best that is in each of us. Racial bigotry and racial intolerance have never marked a very auspicious milestone in the progress of mankind.

The Sacramento Bee, a newspaper of staunch opposition to the Proposition, spoke out many times against the amendment. Early in the campaign it proclaimed that much was at stake and to nullify the Rumford Act would be a tragic setback for human decency in California.

Such were the moralistic arguments used against the Proposition. All were similar in their tenor. The issue was simply one of supporting or not supporting a piece of un-moralistic legislation.

Letter to Men of Good Will in the Stockton /rea,
(A campaign leaflet against Proposition 14. Stockton:
Stockton Diocese of the Roman Catholic Church, Temple Israel,
Stockton Ministerial Association, First Unitarian Church,
and Greater Stockton Council of Churches, 1964).

²Article in the San Francisco Chronicle, October 25, 1964.

³ Article in the Sacramento Bee, February 21, 1964.

Misleading arguments. Considerable effort was expended during the campaign by its opponents in labeling Proposition 14 as a misleading document. Its wording and the arguments used in its behalf, claimed the opposition, gave the electorate false impressions and interpretations of the facts.

Its opponents claimed that Proposition 14 contained wording which did more than what was claimed for it by the measure's supporters. It was not a simple repealer of the Rumford Act as was generally claimed. Rather than repeal "fair housing" legislation, it would do a number of other things. It would prevent the State and local governments from acting upon housing discrimination. It would violate the Fourteenth Amendment to the United States Constitution. It would write into the State Constitution authority to practice racial and religious discrimination in real estate transactions. It would revise rather than amend the State Constitution. In short, Proposition 14 had inherent serious dangers not apparent in its simple language or the arguments used to defend it.

On March 6, 1964, a petition for writ of mandate to prevent Secretary of State Frank Jordan from placing Proposition 14 on the ballot for the General Election was submitted to the California State Supreme Court. This writ was based in part upon the contention that the measure was

misleading and therefore invalid. 4 Though the Court denied the writ, two of the justices voted to uphold it. Thus, there was more to the misleading argument than mere propaganda. It had some legal foundation.

In an early June editorial, the Sacramento Bee gave heavy stress to the "misleading" charge against Proposition 14. The editorial's gist was that the proponents of the measure were "hoodwinking the electorate" into thinking that no one should limit the "absolute" and "sacred" rights of property. Property rights were created by law and have always been regulated by law since as far back as the 14th Century. "Real property," stated the editorial, "is no privileged area of rights unless the voters are gulled into creating one."

Governor Edmund Brown of California, one of the most outspoken critics and opponents of Proposition 14, used the misleading argument against the measure many times. In an address to the Institute on World Affairs, Governor Brown repudiated the charge made by Proposition 14 supporters that the Rumford Act was coercive to property owners.

There is not a single case where a property owner has been oppressed.

Leonard D. Cein, Jr. (ed.), Absolute Discretion? (Research Bulletin No. 7. Sacramento: Sacramento Committee for Fair Housing, 1964), pp. 18-19.

⁵ Editorial in The Sacramento Boo, June 14, 1964.

Of some 93 cases processed to completion, only one has gone to public hearing. The rest have been settled by conciliation or have been dismissed.

The <u>Fair Practices News</u>, official publication of the Fair Employment Practices Commission which was in charge of enforcement of the Rumford Act, stated the following about the misleading nature of Proposition 14:

Most of the housing discrimination complaints filed with the California F.E.P.C. continue to be concerned with apartment rentals, while only a few deal with efforts of minority families to purchase single-family homes.

This indicates ... that the proponents of Proposition 14 are misleading the public when they talk about protecting the home owners The truth is that the law mainly affects two categories of housing - first, property financed with governmental assistance ... and second, transactions by those in the business of housing ...

To claim that the fair housing law invades the rights of individual home owners is nonsense.

A typical campaign pamphlet put out by the opposition played up the misleading charge with these words:

The wording of this proposal is very clever. It appears to be a simple statement guaranteeing the choice to the owner in the selling or renting of housing. Actually its wording is quite devious and its implications are profound.

Actually, all that wordiness comes down to one thing.

⁶ Article in the Stockton Record, August 11, 1964.

^{7&}quot;Few Homeowners Affected by Rumford act," Fair Practices News, No. 19 (July-August, 1964), p. 1.

Even with its triple negatives its intent is clear. The realter association does not want any limitation on its right to sell segregated housing.

Such were the arguments using the misleading charge against Proposition 14. Various applications were used, but all stressed the idea that Proposition 14 would do far more than what was claimed for it in a harmful way and that the arguments used in its behalf were "hoodwinking" the voters.

Racial strife argument. Another argument that was used throughout the campaign was the threat or implication of coming racial and minority strife if Proposition 14 was passed.

This particular argument raised the spectre of violence and unrest throughout California by minorities when Proposition 14 denied them equal access to suitable housing. These people would take to the streets to vent their anger and frustrations upon the white society that was depriving them of the housing they needed and could afford.

Just as the California Real Estate Association began its overtures that led to Proposition 14, Edward Howden, executive officer of the Fair Employment Practices Commission, spoke to the California Apartment Owners Convention about any efforts to repeal "fair housing" laws.

Henry L. Fuller, M. D., An Independent Republican Viewpoint (An 8 page campaign pamphlet against Proposition 14. Bakersfield, California: Henry L. Fuller, 1964), p. 1.

The promoters of this constitutional amendment ... apparently do not care about the turmoil in community and race relations which would boil to fever pitch during the mass campaign, city by city, up and down the state, and which would leave scars for years to come.

This argument was picked up by others and injected into the campaign during its entirety. The <u>Berkeley Gazette</u> in an editorial gave this comment about Proposition II and racial strife.

We would remind the people of Berkeley that last April the city underwent the most convulsive, titter disagreement in its history over the local housing ordinance.

The proposed constitutional amendment to repeal the Rumford Law would, in our judgment, lead to even greater bitterness and tensions on a statewide basis and would nullify all our hard won gains in harmonious race relations. 10

A three-fourth page ad in the <u>San Francisco Chronicle</u> toward the end of the campaign which listed six charges against the proposed constitutional amendment stated in one charge, "Proposition 14 would encourage radical elements who use lawless coercion on our streets." 11

In another type of threat, Dick Gregory, a well-known Negro comedian, stated before a Congress of Racial Equality

Address by Edward Rowden, Executive Officer, C.F.E. P.C., to California Apartment Owners' Association State Convention at San Diego, October 1, 1963.

¹⁰ Editorial in Berkeley Gazetto, December 13, 1963.

¹¹ Advertisement in <u>San Francisco Chronicle</u>, October 23, 1964.

benefit held in October that if Proposition 14 passed there would be boycotts of the state wine and fruit industries in an effort to force the State Supreme Court to declare the measure unconstitutional. 12

This was the tenor of the racial and minority strife arguments that were presented to the California electorate. All gave emphasis to coming racial incidents if the voters approved Proposition 14.

Damage to the state's economy argument. A charge that gained momentum as the campaign progressed was that the economy of the state would suffer if Proposition 14 passed. Proposition 14 would cost California billions of dollars in lost Federal funds.

Its opponents claimed that Proposition 14 would conflict with Federal regulations pertaining to discrimination in Federally financed urban-renewal and redevelopment projects for the State of California. This conflict would cause the Federal agencies involved to stop distribution of Federal funds, amounting to several hundred millions of dollars, on such projects.

Robert Weaver, chief administrator of the U.S.

Housing and Home Finance Agency, warned of this possibility
in letters to various state officials dating from as early as

¹² Article in Stockton Record, October 13, 1964.

February, 1964.

Later in October, while in San Francisco on a speaking engagement, Mr. Weaver told a press conference that a "yes" vote on Proposition 14 would bar local redevelopment agencies from Applying for Federal aid. To get Federal aid, Mr. Weaver explained, the local agencies must take certain steps to assure non-discrimination on grounds of race, religion, or national origin. The housing administrator said,

My legal staff advises me that if Proposition 14 passes, local agencies in California would have no right under your state constitution to take such steps. Therefore your communities would have no opportunity to apply for Federal assistance.

From these pronouncements by Mr. Weaver, the economic factor was taken up by other Proposition 114 opponents and used against it.

Such was the case when the Stockton Record carried the following statement in an article discussing the pros and cons of Proposition 14.

It would strike a damaging blow to California's economy through the loss of \$275,000,000 in federal redevelopment and other construction funds. Thousands of Californians could be thrown out of work.

Innumerable leaflets and pamphlets were distributed statewide during the long campaign carrying the argument

¹³ Article in the San Francisco Chronicle, October 18, 1964.

¹⁴ Article in the Stockton Record, October 22, 1964.

that millions of dollars and jobs would be lost if Proposition 14 passed at the polls.

In a mid-summer speech to the State Building and Construction Trades Council of California convention at San Diego, Albin J. Gruhn, President of the California Labor Federation, AFL-CIO, spoke about the economic aspects of Proposition 14.

We know that Proposition 14 threatens to gut the state's construction industry because over \$1\$ billion in federally assisted housing construction funds are likely to be lost if Proposition 14 should pass. We all know that if the voters of this state - through ignorance, misinformation, and catchy but deceptive and deceitful slogans - are conned into approving Proposition 14, 200,000 jobs will be wiped out. This consequence alone, occuring when the state's jobless rate is already 20 percent above the national average, could be catastrophic. With more than 400,000 Californians presently jobless, it could boost that number by 50 percent and plunge California into an abyss of social, economic, and welfare crises.

This was the tenor of the economic argument made against Proposition 14 during the campaign. All stressed the almost certain loss of huge sums of Federal funds and the allied loss of jobs if the measure was to be passed on election day.

Property rights not absolute argument. One of the more heavily stressed arguments used against Proposition 14

Address by Albin J. Gruhn, President, California Labor Federation, AFL-CIO, to the 42nd convention of the State Building and Construction Trades Council of California at San Diego, July 4, 1964.

was the one based upon the contention that property rights do not supercede human rights or the good of the community.

"Fair housing" laws were in the interest of better communities, cities, and a better state through the promoting of human rights over property rights. Property rights were not in such interests.

This argument made much of the fact that according to our laws "property rights" were not absolute in that no property owner could exercise "absolute discretion" in matters relating to real property. Real property was restricted in many ways by laws such as zoning ordinances and building codes which promote the community good.

"Fair housing" laws were another similar restriction on real property, said this argument, in that they promoted the community good by eliminating discriminatory practices in the sales and rentals of real property. Proposition 14 would nullify all this.

The <u>Sacramento Bee</u> in a June editorial along this line stated:

Californians have been told repeatedly that no one should ever limit the 'absolute' and 'sacred' rights of property. These rights have actually been elevated above human rights by the propaganda of the California Real Estate Association.

This group is going against fact, long established fact at that. Property rights did not fall from heaven. They were created by law. They have been circumscribed by a Niagra of limitations: zoning curbs, sanitation, structural and fire ordinances and a host

of other restraints. 16

The American Friends Service Committee in one of its publications touching upon Proposition 14 and this subject had this to say:

Property rights at any given time represent the current wisdom as to the best balance between restriction and freedom: government must at times limit the liberty of a landowner to assure the larger liberties of other human beings. 17

There were two allied arguments that were used along with the charge that property rights were not absolute. One of the allied arguments was that segregation in housing promoted many of the ills plaguing California's minorities.

The <u>Sacramento Bee</u>, in the same editorial just quoted, brought out this particular idea by stating, "Color restrictions in housing create overcrowded ghettos. The ghettos in turn spawn crime, threats to public health, slums, segregation in education and trouble almost everywhere..."

The other allied argument was that the right to acquire property was an integral part of property rights itself. "Fair housing" legislation safeguarded this right for all. Proposition 14 would permanently bar existing or

¹⁶ Editorial in The Sacramento Bee, June 14, 1964.

¹⁷ American Friends Service Committee, Fair Housing, Vol. XIV (December, 1963), p. 2.

¹⁸ The Sacramento Bee, June 14, 1964.

future legislation for protecting this right.

The American Friends Service Committee brought in this allied argument with its charge that property rights were not absolute in the works previously cited. It said, "Property rights ... include the right to acquire property as well as the right to use and dispose of property." 19

Such was the tenor of the arguments using the charge that property rights were not absolute. All stressed the concept that property rights have always been restricted by various laws for the good of the community. "Fair housing" laws were just another of this type of restriction. Most of these arguments brought in the idea that segregated housing patterns caused much of the troubles common to minorities. Break segregated housing and the welfare of the minority groups would improve. Also, they usually brought into play the concept that the right to acquire property was just as much a part of property rights as the right to rent or sell that property.

Let the Rumford Act prove itself argument. One of the first arguments used against Proposition 14 when it was in the initiative petition stage was that the Rumford Act had not had time to prove its worth. Let it function and then correct any weaknesses through legislative action.

¹⁹ American Friends Service Committee, loc. cit.

The Rumford Act became effective September 20, 1963, and the campaign for the constitutional amendment began early the following November. With such a narrow time gap between the two, it was a natural argument for "fair housing" advocates to embrace.

In an editorial on the subject, the <u>San Francisco</u> Chronicle had this to say:

The motives of those who set out to repudiate this law would have been more understandable and their complaints would have had more impact if they had given the Rumford Act an opportunity to show whether it was workable or not.

The <u>Palo Alto Times</u> in an editorial of similar vein stated:

The law may not fully solve the housing problem, but it's a start. Even if it is imperfect, it deserves a fair trial, not only in its present form, but also after adoption of any perfecting amendments which may be found necessary. 21

This particular argument was not used much after the initiative amendment petition won a place on the ballot. It was changed to fit the campaign. Statistics of cases that came up before the F.E.P.C. under the Rumford Act were used to show that the Rumford Act was not a law deserving nullification. It was relatively harmless as it affected so few people.

Editorial in the San Francisco Chronicle, December 2, 1963.

²¹ Editorial in the Palo Alto Times, November 22, 1963.

Edward Howden, executive officer of the F.E.P.C., in reporting the first year experiences under the Rumford Act made the following statements:

There was not even one case in which any such homeowner was ordered to sell to anyone.

The almost negligible involvement of homeowner sales shows clearly that the hue and cry on behalf of so-called 'home protection' by Proposition 14's sponsors grossly misrepresent the situation under our very moderate fair housing law.

The fair housing law obviously is not punitive in intent or operation. It gives us a moderate and reasonable beginning to deal with serious inequities which exist - as everyone knows - in the housing market. 22

Governor Brown, speaking at San Diego State College during the campaign, brought out this same line of reasoning when he discussed the Rumford Act and its moderateness.

There is not a single case where a property owner has been oppressed. Of some 93 cases processed to completion, only one has gone to a public hearing. The rest have been settled by conciliation or have been dropped.23

Such were the arguments used against Proposition 14 which stressed the ideas that the Rumford Act should be allowed to prove itself and that it was not a coercive law as it was made out to be by some of its enemies. It was a moderate law which should be kept. Any weaknesses that it

Remarks by Edward Howden in a press release issued by the State Office of the F.E.P.C., October 5, 1964.

²³ Article in the Stockton Record, August 11, 1964.

had should be rectified through legislative amendments, not nullification.

Unsound law arguments. Many charges were made during the campaign that Proposition 14 was an unsound measure that should not be allowed to pass.

Many of the unsound law arguments were based upon the contention that Proposition 14 was unconstitutional under the 14th Amendment to the United States Constitution.

One of the earliest attacks upon Proposition 14's constitutionality was in early January, 1964, when civil rights groups brought action in Superior Court to block efforts by the California Real Estate Association and others to qualify their initiative measure for the November ballot. The civil rights groups requested an injunction to halt the initiative campaign on the grounds that the initiative was unconstitutional and that to circulate petitions to get it before the voters was a waste of time and money. 24

The request was denied on the grounds that the court could not rule on constitutional questions before the measure had been submitted to the people. The court refused to consider any aspects other than the legal questions involved. 25

²⁴ Associated Press dispatch, Stockton Record, January 16, 1964.

²⁵ Ibid.

In a direct charge that Proposition 14 conflicted with the 14th Amendment, The Sacramento Bee in a signed article in April had this to say:

If the proposal to nullify California's fair housing laws by constitutional amendment is approved at the polls it will face a formidable obstacle - the lith Amendment of the United States Constitution.

If a court simply looks at the words and goes no further, . . . it will find nothing unconstitutional. But if it looks behind them and finds a discriminatory intent, . . . denial of equal protection could be detected.

Those who listen to the propaganda of the real estate interests should have little difficulty discerning such an intent.

The qurstion is whether the initiative proposal simply would nullify a number of civil rights laws supplementing the 14th Amendment or whether it invades the rights guaranteed by the amendment itself.26

Speculation on Proposition 14's constitutionality was given a big boost when the State Supreme Court implied it existed. In response to the writ to remove the initiative measure from the ballot, Chief Justice Gibson, on June 3, 1964, stated that the Court had doubts as to whether Proposition 14 would be legal under the 14th Amendment. 27

Aaron Epstein, "Rumford Nullifying Plan Would Fail Constitutional Test," The Sacramento Bee, April 26, 1964, p. 25.

²⁷ Leonard D. Cain, op. cit., p. 20.

The proponents of the Rumford Act used this testimony to great advantage as it gave considerable weight to their charge that the amendment was unconstitutional, therefore unsound law.

Other unsound law arguments were based upon the contention that Proposition 11 would create considerable legal confusion if it were passed.

In this vein of thought, Brent Abel, President of the San Francisco Bar, speaking to the State Bar Convention in September, 1964, had this to say about Proposition 14:

It might fairly be called a proposition to promote legal confusion. It would put a potential cloud on every real estate transaction.

This is more than a political question. On the legal side, Proposition 14 contains bad law. 28 it not our duty to tell the people of California? 28

One of the "misleading" arguments used against

Proposition 14 was also often used to support the "unsound

law" argument. This was that the amendment would prevent the

State Legislature, cities, and counties from taking any

action on housing discrimination. This was bad as no

corrective action could be taken on this pressing problem,

unless another constitutional amendment was passed. Such an

amendment was unlikely, thus discrimination was frozen into

Address by Brent Abel, President, San Francisco Bar, to the California State Bar Convention at Santa Monica, September 30, 1964.

the State Constitution. This was unsound law.

In the A.A.U.W. Bulletin there appeared a short explanation as to why the California State Division of the American Association of University Women opposed Proposition 14. It briefly summed up those general charges that made up the unsound law arguments. It said:

The proposed initiative amendment is too broad. It would repeal present laws governing the disposition of property and would prevent any further legislation unless removed by another constitutional amendment. Its constitutionality is in question as to its giving priority to peroperty rights over human rights. Property rights are subject to regulation when rights involving the public welfare are at stake. The amendment would be a factor in the continuation of defacto segregation in the public schools.²⁹

This was the tenor of the unsound law arguments. Not all employed the full gauntlet as did the A.A.U.W. Bulletin, but most used several in the attempt to convince the voter not to vote in favor of the Proposition as it was unsound.

Backed by extremists argument. Using an old saying that "Birds of a feather flock together," opponents of Proposition 11: pointed out that extremists were supporting the measure. Thus, something was wrong with the proposed amendment. The voters of California would not accept a

²⁹ Elizabeth F. Hartman (ed.), A.A.U.W. Bulletin, Orinda Branch, American Association of University Women, Vol. 9, No. 1 (Orinda, California: American Association of University Women, August, 1964), p. 4.

piece of law favored by those people out of the mainstream of American political life. For if such groups and individuals supported it, the ultimate effects of Proposition l4 could not be good for California.

A pamphlet distributed during the campaign by the Californians Against Proposition 14 committee used this approach in its argument against the measure. It stated:

The John Birch Society and other 'hate' groups are backing this un-American attack on your property rights as part of a well-financed national campaign.

The California Real Estate Association and others behind this proposal are the same 'right - to work' forces that tried to destroy unions in 1958 - the same extremists who tried to undercut your givil liberties in 1962 with the 'Francis Amendment.'30

In his address to the State Building and Construction Trades Council convention, Albin J. Gruhn, Fresident, California Labor Federation, AFL-CIO, included the following remarks:

As I said at the outset I am deeply concerned that any of us have to be here tonight because what brings us together is a reflection of the alarming degree of success that the right-wing extremists, the neo-Nazis, the bigots and racists are having with their propaganda And if we all redouble our efforts in the month ahead I am confident we can defeat Proposition 14 and thus crush the termites of evil that are threatening to undermine the very foundations of our great and progressive state. 31

Measure (A campaign pamphlet against Proposition 14, The Extremist Angeles: Californians Against Proposition 14, 1964).

³¹ Address by Albin J. Gruhn.

Governor Brown employed similar terminology more than once against the Proposition. In his address to the students of San Diego State College in August, 1964, Governor Brown introduced extremism by stating, "We ... face a special challenge from forces of extremism which have brought the great moderate temperment of our state under sharp attack." 32

Other opponents of the Proposition used the extremist charge in their attacks against the measure. Basically, most employed "guilt by association" in their arguments. The supporters of Proposition 14 were all lumped together with the John Birch Society, the American Nazi Party, and the White Citizens Councils because these groups, too, supported the proposed amendment. Thus, the California Real Estate Association was put on par with these groups.

If the voter was against any of these extremist groups he should also be against Proposition 14 because they advocated its passage. What they supported could not be good for California.

³² Stockton Record, August 11, 1964.

CHAPTER IX

THE ELECTION RESULTS

It was, of course, the election results that concerned the opponents and proponents of Proposition 114 the most.

The election outcome would either be the vindication of their cause or a repudiation.

This chapter will briefly present this outcome, analyze it, and compare it with other issues on the ballot so as to indicate the extensiveness of the public endorsement of Proposition 14. The election results will be presented to show total votes both for and against the measure. To show how the proposition fared statewide, the vote by county, Congressional district, and city will be analyzed. Also, comparisons of vote have been made with other propositions on the ballot and with the Presidential candidates.

Total vote. On November 3, 1964, the voters of California cast 6,922,207 votes on Proposition 14. This was the largest vote given to any single proposition on the ballot.

The voters of California decided in favor of Proposition 11 by an almost two to one vote on a statewide

Prank M. Jordan (comp.), <u>Californian Statement of Vote</u>, <u>General Election</u>, November 3, 1964, p. 25.

basis. A total vote of 4,526,460 was cast for the constitutional amendment as to a total of 2,395,747 votes cast against it. Stated in percentages, the vote in favor was 65.4% of the total vote while the vote against was 34.6% of the total vote. 3

County vote. Proposition 14 carried the counties by an overwhelming majority. Fifty-seven out of California's fifty-eight counties favored the constitutional amendment. The lone exception was Modoc County which voted 1,555 against it to 1,536 for it. 4 Proposition 14 failed by 20 votes to carry every county in the state.

The narrowest majority given Proposition 14 was cast in Alpine County. It received a 61 vote majority there. The widest majority given it was a 932,278 vote margin cast in Los Angeles County. The remaining majorities fluctuated between these two extremes with most hewing close to the two to one vote expressed in the statewide balloting.

Congressional District vote. As with the counties, Proposition 14 carried the Congressional districts by an

²Ibid.

³Frank M. Jordan (comp.), <u>Supplement to Statement of Vote</u>, <u>General Election</u>, November 3, 1964, p. 6.

⁴ Ibid.

overwhelming majority. Thirty-five out of California's thirty-eight districts voted in favor of the constitutional amendment. Proposition 14 failed to carry only three Congressional districts.

The narrowest margin given to the measure was a 3,043 vote margin cast in the Twenty-sixth Congressional District. The widest majority given to it was a 139, 195 vote margin cast in the Thirty-fifth District. Slightly over fifty per cent of all Congressional districts gave Proposition 14 a two to one vote.

City vote. As with the Congressional district and county votes, Proposition 14 carried the incorporated cities by an overwhelming majority. Three hundred and ninety-one out of four hundred eighteen cities favored the amendment. Proposition 14 failed to carry only twenty-seven cities.

Proposition comparisons. As has been mentioned,
Proposition 14 polled the largest number of votes of any of
the propositions appearing with it on the ballot. All
others received less votes.

Of the sixteen other propositions on the ballot,
Proposition 15 was the second highest vote receiving measure.
Proposition 14 outpolled it by 120,419 votes.

The lowest vote receiving proposition was Proposition 11. Proposition 14 outpolled it by 1,458,963 votes.

Presidential candidate comparison. On a total vote comparison, Proposition 14 received less votes than were cast for the two major political party candidates for President of the United States, President Lyndon B. Johnson and U. S. Senator Barry Goldwater. They polled a combined vote of 7,050,985. This was 128,778 more votes than were cast for Proposition 14.

On a vote breakdown, Proposition 14 fared better on its "yes" vote than did either candidate individually. President Johnson received a total vote of 4,171,877 to Proposition 14's 4,526,460 "yes" votes. Thus, the amendment out-polled the President of the United States by 354,583 votes. Senator Goldwater polled 2,879,108 votes. Proposition 14 surpassed this by 1,847,352 votes.

As this chapter has tried to indicate with these statistics, Proposition 14 was a strong winner in all these categories. No other issue on the ballot, not even that of the Fresidency of the United States, was so overwhelmingly endorsed.

⁵ Jordan, California Statement of Vote, pp. 4-5.

⁶ Ibid., p. 4.

⁷ Ibid., p. 5.

CHAPTER X

THE REASONS WHY PROPOSITION 14 WON

Why did Proposition 14 win the approval of every two out of three voters among the California electorate when so many important organizations and outstanding individuals within the state counseled for its defeat? This chapter will attempt to answer this perplexing question. First, the public opinion polls will be examined to analyze Proposition 14's status with the public during the campaign. Second, the comments of certain individuals, leaders of both sides of the "fair housing" issue, will be examined to obtain their thoughts on the answer to the question. Third, miscellaneous outside comments will be examined to determine a consensus of opinion for an answer to the question. And, fourth, a few personal comments will conclude this study.

Public opinion polls. In January of 1964, the California Poll, a non-partisan survey of public opinion, released for publication the findings of a state wide sampling of public opinion on the Rumford Act and the initiative measure then being circulated by the California Real Estate Association. This initiative measure later became Proposition 14.

Concerning the Rumford Act, the division of opinion between those who approved the law and of those who did not

showed a somewhat larger number in opposition to it than
favoring it. The percentages were:
Disapproved of the Rumford Act 46%
Approved of the Rumford Act
Qualified (good in some ways, not good in others) 4
No opinion
Concerning the initiative measure, there was an even
split of opinion between those who favored it and those who
did not. The percentages were:
Approved of the measure
Disapproved of the measure
Qualified
No opinion
In May of 1964, the California Poll released for
publication another state wide sampling of public opinion on
the Rumford Act and the initiative measure which was now
Proposition 14. This survey showed a distinct gain in
approval for Proposition 14 and a loss for the Rumford Act
from the January sampling.
Percentages for Proposition 14 were:
Approved Proposition 14
Disapproved Proposition 14

l Mervin D. Field, "State Split Evenly on Rumford Act," San Francisco Examiner, January 22, 1964, p. 4.

^{2&}lt;sub>Ibid</sub>.

³Mervin D. Field, "Rumford Act Still Trails," San Francisco Examiner, May 23, 1964, p. 3.

⁴Ibid.

Comparing this sampling with those of May's on the proposed constitutional amendment, it is found that Proposition 14 gained only one percentage point in approval. Likewise, it is found that those in opposition to the measure increased by two percentage points. After a long, hard-fought summer of campaigning, both sides had made a slight increase of approval with the electorate. If the undecided vote was split evenly between those favoring and opposing the amendment, it is found that Proposition 14 would have taken 572% of the vote to 422% for the opposition.

Supporting the findings of the California Poll were the results of a similar survey conducted by Hal Dunleavy and Associates which were published on October 30th. This survey indicated that Proposition 14 was gaining support among the voters since early October when the California Poll was taken.

The Dunleavy survey showed percentages by area and by political party. These percentages were:

Statewide	Yes	No	Undecided
Both parties	57	39	4%
(Early Oct. Poll)	(49)	(46)	(5)

⁵Mervin D. Field, "Proposition 14 Well in Lead," San Francisco Chronicle, October 16, 1965, p. 2.

Statewide	Yes	No	Undecided
Democrats	46	49	5
Republicans	75	22	3
Democrats			
South	45	50	5
North	48	48	14
Republicans			
South	81	16	3
North	67	30	3

Proposition 14, public opinion surveys showed, began the campaign with about 48% of the electorate in favor of what it was intended to do. This percentage grew until it reached 57% of the electorate.

Thus, just prior to Election Day, two reliable polls indicated that Proposition 14 was gaining voter strength and that close to sixty per cent of the State's voters were intending to vote for it.

With such strong indicators, it should not have been surprising to anyone that Proposition 14 would win handily. Election Day results merely bore out what the pollsters had shown would happen.

Comments from both sides. Art S. Leitch, President of the California Real Estate Association which spearheaded

News item in the San Francisco Chronicle, October 30,

the campaign for Proposition 14, in an editorial comment appearing in the <u>CREA Magazine</u> after the election gave this opinion on the election results, "The people of California ... said that they do not want government interference and direction relative to their transactions in real estate." 7

In another article in the same publication, he made further comment by stating:

We in the California Real Estate Association firmly believe that the vote was not directed against any race or group. We believe it was a vote for individual liberty for everyone equally, and we hope Governor Brown and others who so vigogously opposed it will try to acknowledge that fact.

Bishop James A. Pike of the Episcopal Church which was one of the leading churches in opposition to the measure had this to say the day after the election:

It is unthinkable that a majority of the voters want immorality in the sale and rental of housing. We can only conclude that they want morality on a voluntary basis.

Howard L. Byram, chairman of the Statewide Committee for Yes on 14, stated that the passage of Proposition 14 showed the people wanted "their freedom restored to sell or

⁷Art S. Leitch, "Editorial," California Real Estate Magazine, XLV (November, 1964), p. 1.

^{8&}quot;CREA Launches Voluntary Plan to Improve Housing Conditions," California Real Estate Magazine, XLV (November, 1964), p. 5.

Michael Harris, "A Quick Test of Prop. 14 In the Courts," San Francisco Chronicle, November 5, 1964, p. 18.

rent their residential property to anyone they choose without governmental interference. $^{\rm n}^{10}$

In a more direct reasoning why Proposition 14 won,

Jessie Unruh, Democrat and Speaker of the State House of

Representatives, laid the blame on to those who conducted

the campaign against it. He charged them with the following
accusations:

The campaign waged against 14 failed to spell out the alternatives to fair housing so that fair-minded Californians could see the entire picture.

The management of the opposition campaign in many cases did little more than echo back the charges of the sponsors.

They ran a singularly flat, unimaginative campaign which largely undid the work and money put forth by thousands of selfless, dedicated, volunteers.

W. Byron Rumford, author of the Rumford Act, blamed ignorance about "fair housing" legislation by the voters as the cause for Proposition 14's passage. In his own words he had this to say:

Much propaganda was directed against the law because of the total lack of knowledge regarding governmental procedures, and many people did not know the actual contents of the legislation itself. Thus, the terrific number of votes that were compiled against it. 12

Carl Greenburg, "Proposition 14 Approved by Big Margin," Los Angeles Times, November 4, 1964, p. 1, Part I.

¹² Letter from W. Byron Rumford to Arthur Hartgraves on November 10, 1964.

Other leading spokesmen in the campaign against the measure when queried after Election Day about the results had little to say of an informative nature. Most repeated campaign charges that Proposition 14 was still unconstitutional and that they would press for court tests in the very soon future. As to why the people chose to pass it, they evidently preferred not to say.

Miscellaneous comments. More revealing explanations as to why Proposition 14 won came from sources outside the immediate leadership of the anti-Proposition 14 forces. It seemed they could more objectively examine what had happened.

Explanations by those favoring the proposed amendment were not to be found. Having won, they evidently felt little or no need to explain why.

A November 6th article in the <u>San Francisco Chronicle</u> reporting on a group of religious leaders gathered to discuss why their San Francisco campaign against Proposition 114 failed indicated that apathy was a strong factor in why they lost.

The group included Jewish, Frotestant, and Catholic representatives. Each related instances where their own ministers and rabbis failed to participate in their joint

¹³ Michael Harris, "Prop. 14 Fight Reviewed, Clergymen Report on Apathy," San Francisco Chronicle, November 6, 1964, p. 16.

campaign against Proposition 14. This apathy caused many of their church and synagogue members not to become aware of the facts of discrimination which helped Proposition 14 to win at the polls.

The national Catholic weekly magazine, America, in a November issue carried an article explaining why many California Catholics voted for Proposition 14 despite their church's opposition to it. In part, this article stated:

Generally, the Catholic opposition was strong enough to make one realize that many Catholics simply did not accept the authority or the ability of the bishops and clergy to speak out on the moral implications of this political issue. It simply was not a 'moral issue.'

It was too late in 1964 when Catholic leaders in California began to worry about forming true and effective Christian values. 14

The article from which the above excerpts were taken prompted a number of letters to the editor from readers.

These were published at a later date in another issue, but they do shed light on why some Catholics might have voted for Proposition 14 as they provide other explanations.

One letter from a member of the Catholic clergy said that while many people believe fair housing laws were proper ways to eradicate discrimination, many others believed such laws were not the way. And, could they not hold in good conscience that this form of integration was a dangerous

¹⁴ Niels J. Anderson, "Proposition 14 and the Liturgy," America, CXI (November 21, 1964), p. 658.

philosophy? 15

Another writer from Inglewood, California, phrased the idea that if all men's souls and rights were going to be protected by legislative enactment, why bother to teach and preach? 16

The Christian Century, a national ecumenical weekly, in an article published shortly after the election bluntly laid Proposition 14's victory to the California white racists voting their bigotry. 17

The opinionative New Republic magazine in a post election article on Proposition 11, stated that the voters of California "are a perversely independent and totally unpredictable lot." They voted "more in mischief than in malice" to destroy their state's "fair housing" law. 18

In another article at a later date, The New Republic said that considerable evidence showed that Proposition 14 became a backlash issue to the conservatives of California. Its passage was a clear signal of the state turning "right"

^{15&}quot;State of the Question," America, 112 (January 9, 1965), p. 50.

¹⁶ Ibid.

^{17&}quot;No Time for Complacency," The Christian Century, LXXXI (November 18, 1964), p. 1420.

^{18 &}quot;Anything Can Happen in California -- and Did," The New Republic, 151 (November 14, 1964), p. 6.

in its politics. 19

George N. Crocker, conservative political-news columnist, devoted his entire November 8th column to Proposition 14's win. He made some pointed remarks which are given below.

There was something unwholesome about the battle over Proposition 14. The effort to defeat it was a blitzkrieg of intolerance. ('What are you - a bigot?') As a result, almost everyone professed to be against it. Silently, the voters went to their polling places and voted 'Yes.'

It won't do to call the 4,127,000 Californians who voted for No. 14 bigots. These people smelled tyranny. They could see a basic liberty taken away. The threat came close to home. It came right into the home. 20

In December of 1964, The National Association of Real Estate Boards held its convention in Los Angeles. Its Fresident, Mr. Ed Mendenhall, said that those voting against the Rumford Act did so because they "consider the right of decision in private property a liberty essential to the preservation of their most basic human right -- separate and apart from civil rights."

^{19 &}quot;Right Turn in California," The New Republic, 152 (January 16, 1965), p. 18.

George N. Crocker, "Prop. 14 Victory," San Francisco Examiner, November 8, 1964, Sec. II, p. 3.

^{21&}quot;NAKEB President Thanks Voters for Rejecting Forced Housing," California Real Estate Magazine, XLV (December, 1964), p. 6.

Thus were the veins of comment explaining why
Proposition 14 won. Apathy among the ranks of the clergy,
the mischievous nature of California voters, refusal of church
members to follow their leaders' advice, out-and-out white
bigotry, the issue of governmental intervention in private
affairs, and the awareness of voters of losing a basic
liberty were, among others of less frequent mention, given
credence for securing victory for Proposition 14 over its
opposition. No one particular explanation proved acceptable
to those critics after the election who tried to explain
what happened. Depending upon the critic's viewpoint, there
seemed to be an explanation for everyone.

Concluding comments. Since no one particular explanation could be given by critics as to why Proposition 14 won so handily, it must be assumed that a number of explanations are necessary. No one particular explanation could be given because there wasn't one. The voters endorsed the amendment for a variety of reasons. However, those explanations that were given by the critics and examined in the previous pages do not completely show why Proposition 14 won, although they do explain in part. Other factors were involved and need to be acknowledged.

One such factor was the white "backlash" against the civil rights movement.

Many people throughout the United States, while not active in the civil rights movement either for or against it, began in 196h to move away from this neutrality. The numerous sit-ins and demonstrations, oft-times accompanied by violence, caused a reaction to occur among these people. They disapproved of these tactics by civil rights protest groups. They sought ways to express their disapproval. Those who were Democrats, in several states, voted for Governor George Wallace of Alabama for President in Democratic primaries. Those who were Republicans supported Senator Barry Goldwater of Arizona for President in Republican primaries.

In California the issue of Proposition 14 presented another way to express disapproval of the civil rights movement for those who resided there. As a factor, it must have contributed considerably toward Proposition 14's victory.

Aiding this "backlash" against the civil rights movement was another factor, the fear that many whites had concerning declining values of property when neighborhoods become integrated. This fear has motivated more whites to

Louis Harris, "Division on Rights Pointed Up by GOP," Los Angeles Times, July 20, 1964, p. 3; and Herbert H. Hyman and Paul B. Sheatsley, "Attitudes toward Desegregation," Scientific American, CCXI (July, 1964), p. 16.

oppose integration than out and out prejudice. The economic factor of a possible loss in property values undoubtedly scared many whites into voting for Proposition 14. They knew the proposed amendment would provide the means for keeping minorities out of all-white neighborhoods thereby keeping their property values from possibly dropping.

Another factor not mentioned by the critics and which must have aided the "backlash" was the feeling or belief held by many whites that the Negro should prove himself worthy of acceptance as did the different ethnic groups that immigrated to the United States from Europe and Asia. These immigrants adopted the necessary middle-class values, occupations, and behavior which permitted them to enter into the mainstream of American life. If these immigrants were able to achieve on their own what the Negro currently sought through legislation such as the Rumford Act, many whites undoubtedly must have felt that the Negro should do likewise. They, too, should earn their place in the American society. Consequently, these whites probably voted for Proposition 14

^{23&}quot;The Challenge of Open Occupancy," House and Home, (November, 1962), p. 93.

²⁴B. T. McGraw, "Equal Opportunity in Housing -- Trends and Implications," Phylon, The Atlanta University Review of Race and Culture, XXV (Spring, 1964), p. 3; and Charles E. Silberman, "The City and the Negro," Fortune, (March, 19, 1962), p. 2.

with the idea in mind that the Negro deserved no special treatment such as "fair housing" laws.

Finally, there were political factors other than the ones of governmental intervention in private affairs and the awareness of losing a basic liberty which entered into the voters rejecting the counseling of the churches and many leaders to repudiate Proposition 14.

Significantly, in every case throughout the United States where the people have voted on whether or not they should allow "fair housing" legislation, the people have voted such laws down. Where such laws are in effect, they have been enacted by governmental bodies without the vote of the people governed. Also, the history of the trend of "fair housing" legislation shows that these laws first assume a form that seems relatively mild to the people. Then the laws are extended to include more and more persons for wider reasons.

California voters were aware of this. The Rumford

Act was preceded by two other legislative enactments

pertaining to discrimination in housing. Each extended the

concept of "fair housing" further and included more coverage.

Reed Robbins, "A Critical Analysis of Anti-Discrimination Housing Laws," California Real Estate Magazine, XLIV (September, 1964), p. 29.

²⁶ Ibid.

In addition, judicial interpretation broadened these laws even more. 27

Having the opportunity to express their disapproval of an unpopular idea in legislation and knowing that the legislature would most likely further widen the scope of such legislation already on the books, it seems most probable that many California voters voted more against "fair housing" legislation than for Proposition 14 per se.

Also, there was raised during the campaign the philosophy that there existed the right to practice prejudice in selling or renting real estate by its owner. One could question the wisdom to do so, but not the right to do it. This philosophy denied that civil rights transcended all other rights. Many white Californians certainly embraced this point of view.

These was one other factor which affected the vote politically. A Gallup Poll, published in the Los Angeles Times on September 11, 1963, reported that fifty percent of those interviewed felt that the national administration was pushing integration too fast. Only ten percent thought

²⁷Burks vs. Poppy Construction Co., 57 Cal. 2d 463 (1962); and Lee vs. O'Hara, 20 Cal. Reptr., 617, (1962).

Article in Los Angeles Times, February 12, 1964; and an editorial in The Manteca Bulletin, April 22, 1964.

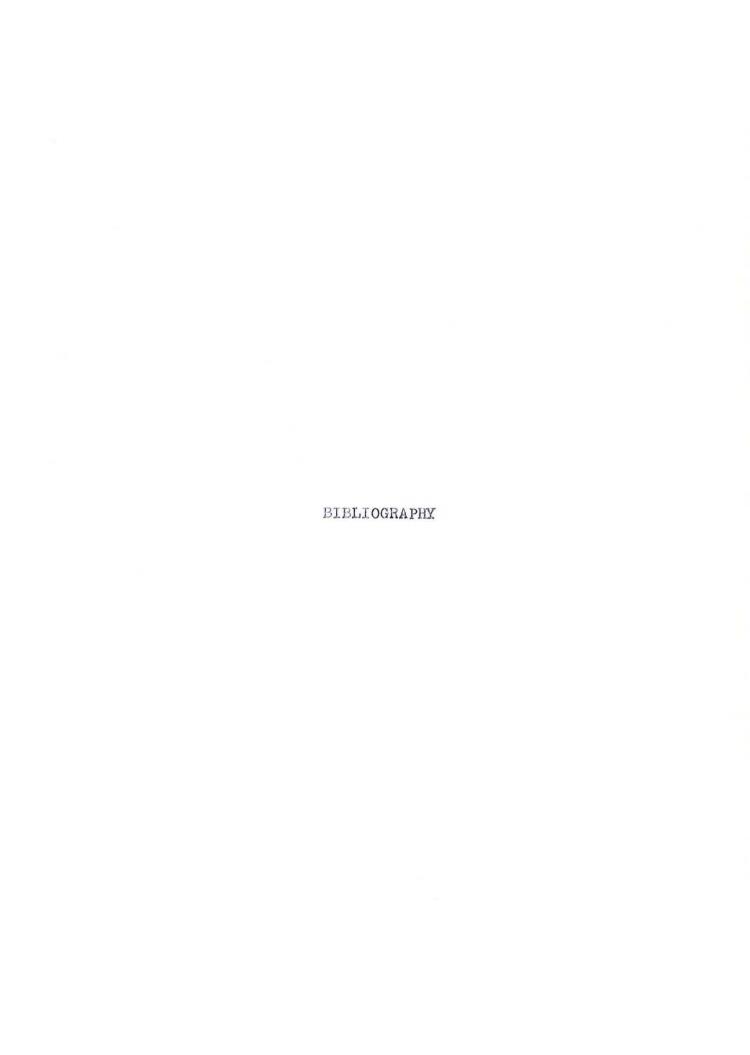
integration was not being pushed fast enough. 29

At the California level, the poll would probably bear out a similar finding. Thus, at least a near majority of California voters were of the opinion that integration was being pushed too fast. Such anti-feelings could have been easily translated into votes for Proposition 14 during a long campaign. Many votes, undoubtedly, were obtained from this source.

As this chapter has shown, Proposition 14 won because of many different reasons. However, what motivated the voters of California to vote the way they did on this measure can never be completely known.

The one particular thing that stands out very clearly from all of this is that the people of California rejected the concept of "fair housing" as it was legislated in California through the Rumford Act. Their vote was unmistakably loud and clear for all to hear.

²⁹ Article in Los Angeles Times, September 11, 1963.



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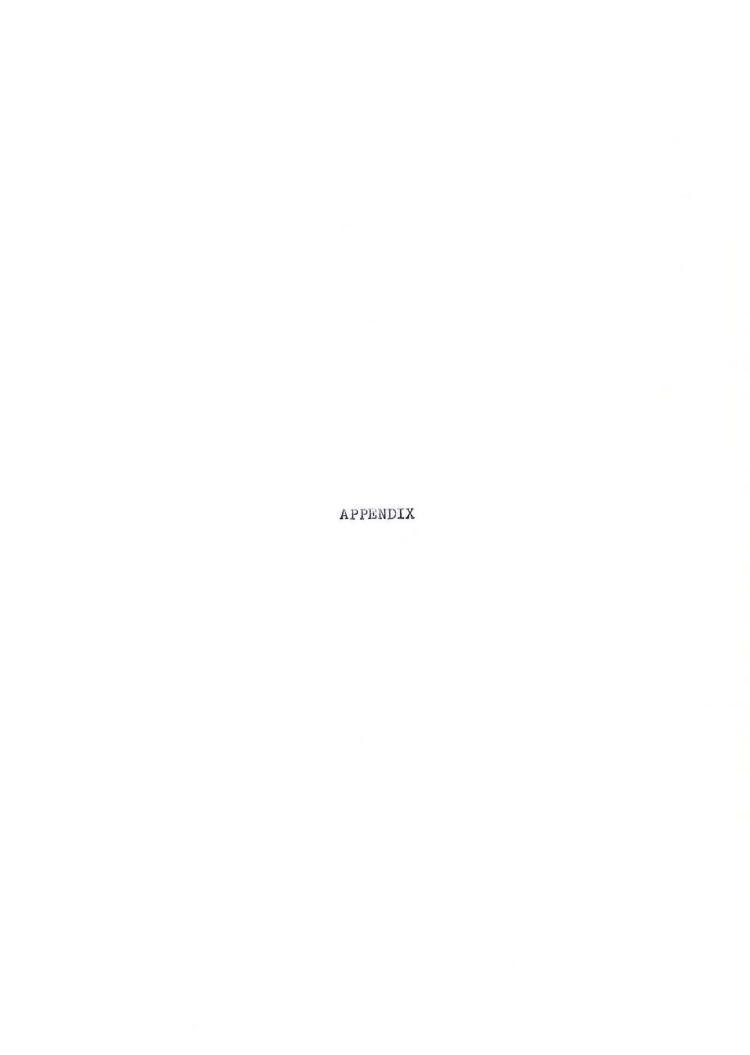
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FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

RUMFORD FAIR HOUSING ACT

Assembly Bill No. 1240 CHAPTER 1853

An act to repeal Part 5 (commencing with Section 35700) of Division 24 of, and to add Part 5 (commencing with Section 35700) to Division 24 of, the Health and Safety Code, and to add Section 1419.5 to, and to amend Section 1414 of, the Labor Code, relating to discrimination in housing.

Approved by Governor July 18, 1963. Filed with Secretary of State July 19, 1963.

The people of the State of California do enact as follows:

Section 1. Part 5 (commencing with Section 35700) of Division 24 of the Health and Safety Code is repealed. Sec. 2. Part 5 (commencing with Section 35700) is added to Division 24 of the Health and Safety Code, to read:

PART 5. DISCRIMINATION IN HOUSING

Chapter 1. Findings and Declaration of Policy

35700. The practice of discrimination because of race, color, religion, national origin, or ancestry in housing accommodations is declared to be against public policy. This part shall be deemed an exercise of the police power of the State for the protection of the welfare, health, and peace of the people of this State.

Chapter 2. Definitions

35700. When used in this part:

- 1. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy and receivers or other fiduciaries.
- 2. The term "housing accomodation" includes any improved or unimproved real property, or portion thereof, which is used or occupied, as the home, residence or sleeping place of one or more human beings but shall not include any accommodations operated by a religious, fraternal, or charitable association or corporation not organized or operated for private profit; provided, that such accommodations are being used in furtherance of the primary purpose or purposes for which the association or corporation was formed.

3. The term "publicly assisted housing accommodation" includes any housing accommodation within the State:

(a) Which at the time of any alleged unlawful discrimination under Section 35720 is granted exemption in whole or in part from taxes levied by the State or any of its political subdivisions; provided, that nothing herein contained shall apply to any housing accommodations solely because the owner thereof enjoys any type of tax exemption by virtue of his veteran status.

(b) Which is constructed on land sold below cost by the State or any of its political subdivisions or any agency thereof, pursuant to the Federal Housing Act of 1949.

(c) Which is constructed in whole or in part on property acquired or assembled by the State or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction.

(d) The acquisition or construction of which is, at the time of any alleged unlawful discrimination under Section 35720, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the State or any of its political subdivisions or any agency thereof.

4. The term "owner" includes the lessee, sublessee, assignee, managing agent, real estate broker or salesman, or any person having any legal or equitable right of ownership or possession or the right to rent or lease housing accommodations, and includes the State and any of its political subdivisions and any agency thereof.

5. The term "discriminate" includes to segregate or

separate. The term "multiple dwelling" means a dwelling which is occupied, as a rule, for permanent residence purposes and which is either rented, leased, let or hired out, to be occupied as the residence or home of three or more families living independently of each other. A "multiple dwelling" shall not be deemed to include a hospital, convent, monastery, public institution, or a building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one housing accommodation occupied by not more than two families. The term "family" means either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder," "roomer" or "lodger" residing with a family means a person living within the household who pays a consideration for

such residence and does not occupy such space within the household as an incident of employment therein.

Chapter 3. Discrimination Prohibited

35720. It shall be unlawful:

1. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodation because of the race, color, religion, national origin, or ancestry of such person or persons.

2. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to discriminate against any person because of the race, color, religion, national origin or ancestry of such person in the terms, conditions or privileges of any publicly assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

3. For any owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to make or to cause to be made any written or oral inquiry concerning the race, color, religion, national origin or ancestry of a person seeking to purchase, rent or lease any publicly assisted housing accommodation for the purpose of violating any of the provisions of this part.

4. For the owner of any publicly assisted housing accommodation which is a single family dwelling occupied by the owner, with knowledge of such assistance, to commit any

of the acts prohibited by subdivisions 1, 2, and 3.

5. For the owner of any dwelling, other than a dwelling containing not more than four units, to commit any of the

acts prohibited by subdivisions 1, 2, and 3.

6. For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, as defined in this part, to discriminate against any person because of race, color, religion, national origin, or ancestry with reference thereto.

7. For any person, bank, mortgage company or other financial institution to whom application is made for financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, national origin or ancestry of such person or persons, or of prospective occupants or tenants, in the terms, conditions or privileges relating to the obtaining or

use of any such financial assistance.

8. For any person to aid, abet, incite, compel or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

Chapter 4. Enforcement

35730. The State Fair Employment Practice Commission created by Section 1414 of the Labor Code is empowered to prevent violations of Section 35720, after a verified complaint has been filed with the commission pursuant to Section 35731.

35730.5. The commission, in connection with its functions under this part, shall have the following powers and duties:

(a) To meet and function at any place within the State.

(b) To appoint an attorney, and such clerks and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(c) To obtain upon request and utilize the services of

all governmental departments and agencies.

(d) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this part.

(e) To receive, investigate and pass upon verified complaints alleging discrimination in housing accommodations, as defined in this part, because of race, religious creed,

color, national origin or ancestry.

(f) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and, in connection therewith, to require the production of any books or papers at such hearings relating to any matter under investigation or in question before the commission.

(g) To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, national origin, or ancestry, and to foster, through community effort or otherwise, good will, co-operation, and counciliation among the groups and elements of the population of the State and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(h) To issue such publications and such results of investigations and research as in its judgment will tend to

promote good will and minimize or eliminate discrimination because of race, religious creed, color, national origin, or ancestry.

(i) To render annually to the Governor and biennially to the Legislature a written report of its activities and of

its recommendations.

35731. Any person claiming to be aggrieved by an alleged violation of Section 35720 may file with the commission a verified somplaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission. However, no such complaint may be made or filed unless the person claiming to be aggrieved waives any and all rights or claims that he may have under Section 52 of the Civil Code and signs a written waiver to that effect.

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days, if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence.

The State Fair Employment Practice Commission may thereupon proceed upon such complaint in the same manner and with the same powers as provided in Part 4.5 (commencing with Section 1410) of Division 2 of the Labor Code in the case of an unlawful employment practice, and the provisions of that part which are not inconsistent with this part as to the powers, duties and rights of the State Fair Employment Practice Commission, its chairman, members, attorneys or agents, the complainant, the respondent, the Attorney General and the superior court, shall apply to any proceeding under the provisions of this section. However, Section 1430 of the Labor Code shall not apply to this part, and the Attorney General may not make, sign, or file a complaint under this part.

35732. (a) If such verified complaint alleges facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Section 35720, the chairman of the commission shall designate one of the commissioners to make, with the assistance of the commission's staff, prompt investigation in connection therewith. If such commissioner determines after preliminary investigation that probable cause exists for believing the allegations of the complaint, he shall immediately endeavor to eliminate the alleged unlawful practice by conference,

conciliation, and persuasion.

(b) If, after the preliminary investigation, probable cause does not exist for believing the allegations of the complaint, the assigned commissioner shall dismiss the complaint. Notice of dismissal shall be sent to the respondent and the complainant by registered mail--return receipt requested and the complainant then shall have 15 days from the receipt day to file an appeal to the dismissal.

If the assigned commissioner fails to eliminate such alleged unlawful practice and believes probable cause still exists, he may issue and serve in the name of the commission a written accusation together with a copy of such complaint, as the same may have been amended, requiring the owner named in such accusation, hereinafter referred to as "respondent," to answer the charges of such accusation at a hearing.

The written accusation, hearings, and all matters pertaining thereto shall be in accordance with the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, and the commission shall have all the powers granted therein.

35733. After a verified complaint has been filed with the commission pursuant to Section 35731, and the preliminary investigation thereof has been carried out, or a 20-day period has elapsed from the filing of the verified complaint, if the preliminary investigation has not then been completed, an appropriate superior court may, upon the motion of the respondent, order the commission to give to the respondent, within a specified time, a copy of any book, document, or paper, or any entries therein, in the possession or under the control of the commission, containing evidence relating to the merits of the verified complaint, or to a defense thereto, The commission shall comply with such an order.

35734. The commission, at any time after a complaint is filed with it and it has been determined that probable cause exists for believing that the allegations of the complaint are true and constitute a violation of this part, may bring an action in the superior court to enjoin the owner of the property from taking further action with respect to the rental, lease, or sale of the property until the commission has completed its investigation and made its determination; but a temporary restraining order obtained under this section shall not, in any event, be in effect for more than 20 days. In such action an order or judgment may be entered awarding such temporary restraining order or such preliminary or final injunction in accordance with Section 527 of the Code of Civil Procedure.

35735. All matters connected with any conference, conciliation, or persuasion efforts under this part are

privileged and may not be received in evidence. The members of the commission and its staff shall not disclose to any person what has transpired in the course of such endeavors to conciliate. Every member of the commission or its staff who discloses information in violation of this section is guilty of a misdemeanor. Such disclosure by an employee subject to civil service shall be cause for disciplinary action under the State Civil Service Act.

35736. When an owner is contacted by the commission, a commissioner, or a member of the commission's staff, he shall be informed whether the contact is for the purpose of investigation or conference, conciliation, or persuasion; and if it is for conference, conciliation, or persuasion, he shall be informed that all matters relating thereto are privileged.

35737. The commission shall without undue delay cause a copy of the verified complaint that has been filed under the provisions of this part to be served upon or mailed to the owner alleged to have committed the violation complained of.

35738. If the commission finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take one of the following affirmative actions, as, in the judgment of the commission, will effectuate the purpose of this part:

(1) The sale or rental of the housing accommodation to the

aggrieved person, if it is still available.

(2) The sale or rental of a like accommodation, if one is available, or the next vacancy in a like accommodation.

(3) The payment of damages to the aggrieved person in an amount not to exceed five hundred dollars (\$500), if the commission determines that neither of the remedies under (1) or (2) is available.

The commission may require a report of the manner of

compliance.

If the commission finds that a respondent has not engaged in any practice which constitutes a violation of this part, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said accusation as to such respondent. A copy of its order shall be delivered in all cases to the Attorney General and such other public officers as the commission deems proper.

Any order issued by the commission shall have printed on its face references to the provisions of the Administrative Procedure Act which prescribe the rights of appeal of any party to the proceeding to whose position the order is adverse.

Chapter 5. Miscellaneous

35740. Nothing contained in this part shall be deemed to repeal any of the provisions of any other law of this State relating to discrimination because of race, color, religion,

national origin or ancestry.

35741. Nothing in this part shall be construed to affect the title or other interest of a person who purchases, leases, or takes an encumbrance on a housing accommodation in good faith and without knowledge that the owner or lessor of the property has violated any provision of this part.

35742. Nothing contained in this part shall be construed to prohibit selection based upon factors other than race,

color, religion, national origin, or ancestry.

35743. As it is the intention of the Legislature to occupy the whole field of regulation encompassed by the provisions of this part, the regulation by law of discrimination in housing contained in this part shall be exclusive of all other laws banning discrimination in housing by any city, city and county, county, or other political subdivision of the State. Nothing contained in this part shall be construed to, in any manner or way, limit or restrict the application of Section 51 of the Civil Code.

35714. The provisions of this part shall be liberally construed for the purpose of effectuating the public policy

contained herein.

read:

Section 1414 of the Labor Code is amended to read: Sec. 3. 1414. There is in the Division of Fair Employment Practices the State Fair Employment Practice Commission. Such commission shall consist of seven members, to be known as commissioners, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and one of whom shall be designated as chairman by the Governor. term of office of each member of the commission shall be for four years; provided, however, that of the commissioners first appointed two shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. The term of office of each member of the commission appointed pursuant to the 1963 amendments to this section shall also be for four years; provided, however, that of the two commissioners first appointed pursuant to the said amendments, one shall be appointed for a term which shall expire September 18, 1966, and one for a term which shall expire September 18, 1967. Sec. 4. Section 1419.5 is added to the Labor Code, to

1419.5. The commission is empowered to prevent discrimination in housing as provided in Part 5 (Commencing with Section 35700) of Division 24 of the Health and Safety Code.

Sec. 5. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

UNRUH CIVIL RIGHTS ACT (Civil Code)

Section 51. This section shall be known, and may be cited, as the Unruh Civil Rights Act.

All persons within the jurisdiction of this State are free and equal, and no matter what their race, color, religion, ancestry, or national origin are entitled to the full and equal accomodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

This section shall not be construed to confer any right or privilege on a person which is conditioned or limited by law or which is applicable alike to persons of every color, race, religion, ancestry, or national origin.

Section 52. Whosoever denies, or who aids, or incites such denial, or whoever makes any discrimination, distinction or restriction on account of color, race, religion, ancestry, or national origin, contrary to the provisions of Section 51 of this code, is liable for each and every such offense for the actual damages, and two hundred fifty dollars (\$250) in addition thereto, suffered by any person denied the rights provided in Section 51 of this code.

ESTIMATE OF CAMPAIGN EXPENDITURES

California law does not require publication of expenditures made during campaigns such as the one for Proposition 14.

From documents filed with the Secretary of State's office by both proponents and opponents of Proposition 14, the following estimate on expenditures was made by Secretary of State Frank M. Jordan:

¹ Letter from Secretary of State Frank M. Jordan to Arthur Hartgraves on December 17, 1965.