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RELEASING OBLIGATIONS,  
ENCUMBRANCES AND AGREEMENTS  
TAKEN AS SECURITY FOR STATE AID TO  
AGED PERSONS

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<b>RELEASING OBLIGATIONS, ENCUMBRANCES AND AGREEMENTS            TAKEN AS SECURITY FOR STATE AID TO AGED PERSONS.</b>		
<b>Assembly Constitutional Amendment 6.</b> Adds section 13 to Article XVI of Constitution. Releases all liens, mortgages and other encumbrances heretofore taken by counties as security for aid granted aged persons,	YES	
and all claims of State, counties and State agencies against them or their properties based thereon or on agreements not to transfer or encumber real property without consent of board of supervisors, and cancels all such agreements. Requires counties execute and record appropriate instruments of release.	NO	

(For full text of measure, see page 1, Part II)

**Argument in Favor of Assembly Constitutional Amendment No. 6**

An amendment was adopted to California's Aged Aid Act by the Legislature in 1939 requiring applicants for and recipients of aged aid to sign an agreement not to sell, transfer, or mortgage real property without the consent of the county board of supervisors.

This provision of the law was repealed by the Legislature sitting in extraordinary session in 1940 and is no longer effective. The Legislature was well within its rights when it decreed that no new property agreements need be taken. There may, however, be some doubt as to the constitutional power of the Legislature to invalidate those agreements that have already been made.

This constitutional amendment was initiated by the Legislature to clear, without any question of doubt, the rights and title of recipients of aged aid in their property. It releases all agreements not to transfer or encumber that have heretofore been made and requires board of supervisors to execute and record necessary instruments.

It seems that there can be no argument against the adoption of this constitutional amendment. It will cost the taxpayers nothing as no equities in properties are involved. It will remove all question as to the rights of aged aid recipients to transfer, encumber, or otherwise to handle or dispose of their real property as they see fit.

**ELMER E. LORE,**  
 Member of the Assembly,  
 Forty-second District.

**GERALD C. KEPPLER,**  
 Member of the Assembly,  
 Fiftieth District.

**Argument Against Assembly Constitutional Amendment No. 6**

This proposed constitutional amendment not only proposes the release of all liens taken on property for aid advanced in the form of

old age security payments up to September 1, 1937, as required under the Statutes of 1929, but in addition would release any interest—lien, mortgage or otherwise—no matter how secured by a county, in the estates of recipients of aid, which arose under the agreements requiring recipients of old age security to sign agreements not to transfer their properties without the consent of the board of supervisors in the respective counties.

In full effect, this amendment would remove from our State Constitution, in so far as these aid matters are concerned, the clauses which prohibit the making of a gift of public funds. An attempt was made recently to release these encumbrances given in consideration of aid received, but the State Supreme Court, in the case of *Los Angeles County vs. Jessup*, ruled that release of the liens, etc., would be an unlawful gift of public "money or things of value."

There are in Los Angeles County alone—where the highest relief load is carried in the State—about three thousand of such liens held under the 1929 statute. They average about \$250 each, and a total of approximately \$750,000. They are being paid off at a rate of about \$100,000 a year, and, at the present ratio, would be cleared in seven or eight years. And, in every instance, payments are being made without effecting material hardship upon those who received the public assistance. If Proposition No. 1 were to pass, it would mean the loss of this large amount of money to Los Angeles County and to other counties in the State in proportion.

Apart from the heavy loss to taxpayers who have financed these aid grants to recipients, Proposition No. 1 should not be adopted for the reason that release under its terms of these liens and mortgages in most cases would not accrue ever to the advantage of the aged recipient, but instead would be an advantage, upon the death of the aged person given aid, to relatives or other beneficiaries of their estates who, during the time aid was extended with public funds to the aged person, were relieved of any financial responsibility for the aged person's

support. In full effect, it would be these persons, who failed or refused to contribute to the aged person's support, who are made a gift of public funds because they would get the aged person's property upon the aid recipient's death. Or, as the only other alternative, the property of the aged aid recipient would be taken by nonrelated persons who place encumbrances upon the recipient's property subsequent to giving of the aid.

In summary, there are three main reasons why a "NO" vote should be cast on Proposition No. 1:

(1) Loss of hundreds of thousands of dollars to the tax-paying public, without corresponding benefit to recipients of aid.

(2) Virtual gift of large sums of money, the form of estates of aid recipients, to relatives who failed or refused to assist aged persons during their lifetime.

(3) Constitutional waiver of the clause prohibiting gift of public funds in aid cases, thus establishing an extremely dangerous precedent.

THE PROPERTY OWNERS' ASSOCIATION OF CALIFORNIA, INC.

<p><b>2</b> RELEASE OF ENCUMBRANCES GIVEN AS SECURITY FOR OLD AGE AID. Assembly Constitutional Amendment 1. Adds section 12 to Article XVI of Constitution. Releases all liens, mortgages and other encumbrances taken by counties as security for aid granted to aged persons under Old Age Security Act or Old Age Security Law. Directs county boards of supervisors to execute and record appropriate instruments releasing such liens, mortgages and encumbrances.</p>	YES
	NO

(For full text of measure, see page 2, Part II)

**Argument in Favor of Assembly Constitutional Amendment No. 1**

Ratification of this constitutional amendment will have the effect of releasing all liens and encumbrances recorded against the properties of recipients of aged aid (the so-called State pension) under statutes in effect prior to September 1, 1937. Until that date California's Old Age Security Act provided that as a condition of granting assistance, county boards of supervisors might require assignment of real property to the county or that a lien might be created against such property by recording a notice of the granting of aid.

In 1937 the Legislature changed the law to provide that after the effective date of the amendment no aid granted should constitute a lien against the property of a recipient and county supervisors were directed to execute appropriate instruments for the release of liens previously taken.

No liens have been taken for aid given since that time. The State Supreme Court ruled, however, that the Legislature exceeded its constitutional authority in providing for the release of liens already recorded. As a result of that opinion, title to thousands of parcels of property

belonging to recipients of aged aid is still clouded.

It has been found impossible in most cases to refinance or sell properties against which these liens are held. This has caused owners much hardship and mental anguish and has been source of trouble for title companies and mortgagees.

The release of these liens will not result in any substantial financial loss to the State or the counties of California. The properties are of necessity of nominal value because no applicant is eligible for aged aid if he holds real estate with an assessed value in excess of \$3000. The average value of the holdings is considerably below that figure and in many cases the owner has only an equity.

Only owners of real property who received aged aid prior to September 1, 1937, are subject to these liens. Those who have qualified for assistance under the law since that time are exempt. This fact alone should be sufficient argument in favor of the ratification of this amendment. There can be no logical reason for discrimination between these two categories of aged citizens.

ELMER E. LORE,  
Member of the Assembly,  
Forty-second District.

**RELEASING OBLIGATIONS, ENCUMBRANCES AND AGREEMENTS  
TAKEN AS SECURITY FOR STATE AID TO AGED PERSONS.**

**Assembly Constitutional Amendment 6.** Adds section 13 to Article XVI of Constitution. Releases all liens, mortgages and other encumbrances heretofore taken by counties as security for aid granted aged persons, and all claims of State, counties and State agencies against them or their properties based thereon or on agreements not to transfer or encumber real property without consent of board of supervisors, and cancels all such agreements. Requires counties execute and record appropriate instruments of release.

YES

NO

Assembly Constitutional Amendment No. 6—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding a new section numbered 13 to Article XVI thereof, relating to liens, mortgages, encumbrances, and agreements taken as security for aid to the aged, and to the powers of the Legislature in relation thereto.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, in extraordinary session commencing on the twenty-ninth day of January, 1940, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding a new section, to be numbered 13, to Article XVI thereof, to read as follows:

(This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new section thereto; therefore, the provisions thereof are printed in BLACK-FACED TYPE to indicate that they are NEW.)

**PROPOSED AMENDMENT TO THE CONSTITUTION.**

**Sec. 13.** (a) The people of the State of California, for themselves, for the State government, and for every county and other agency of the government of the State, do hereby abjure, renounce, and relinquish all rights and claims heretofore acquired by the State or any county or other agency of the State under the provisions of the Old Age Security Act of the State of California (Chapter 530 of the Statutes of 1929, as amended), or the Old Age Security Law (Chapter 1 of Division III of the Welfare and Institutions Code), or both, against the property of recipients of aid to the aged lawfully granted and received pursuant to said laws, or against such recipients personally, in so far as such rights and claims are based upon or arise out of liens, mortgages, transfers or other encumbrances taken by any county as security for aid granted pursuant to the provisions of said laws, or either of them, or are based upon or arise out of agreements not to transfer or encumber real property without the consent

of the board of supervisors entered into pursuant to the provisions of sections 2226 and 2229 of the Welfare and Institutions Code as added thereto by Chapter 719 of the Statutes of 1939;

(b) All liens, mortgages, and other encumbrances heretofore taken by any county as security for aid granted under the aforesaid laws, or either of them, are hereby released, and shall hereafter be conclusively presumed to have been paid;

(c) Every agreement not to transfer or encumber real property without the consent of the board of supervisors heretofore executed pursuant to the provisions of sections 2226 and 2229 of the Welfare and Institutions Code as added thereto by Chapter 719 of the Statutes of 1939 is hereby rescinded, canceled and declared to be hereafter of no force and effect, subject to the consent thereto of the applicant or recipient of aid, his legal representative, or successor in interest in the property concerning which the agreement was made. The failure of the applicant or recipient, his legal representative, or successor in interest, to cause to be recorded in the office of the county recorder within thirty days after this section becomes effective an instrument expressly withholding consent to the rescission and cancellation of any such agreement shall constitute consent thereto, and every such agreement, to the rescission and cancellation of which consent has not been expressly withheld, shall, from a date thirty days after this section becomes effective, be conclusively presumed to have been rescinded, canceled, and of no effect;

(d) The board of supervisors of each county shall immediately execute and record appropriate instruments of release or rescission and cancellation of all such liens, mortgages, encumbrances and agreements and shall take such other steps as may be necessary to relieve the recipients of aid heretofore granted to such persons under either or both of such statutes and the real property of the recipients from all obligation to repay either to the county or to the State any such aid lawfully granted to or received by any such person;

(e) Notwithstanding any other provision of this Constitution, the Legislature shall have power to

release, rescind, cancel, or otherwise nullify in whole or in part any encumbrance on property, personal obligation, or other form of security heretofore or hereafter exacted or imposed by the Legislature to secure the repayment to, or reimbursement of, the State, and the counties or other agencies of the State government, of aid lawfully granted to and received by aged persons;

(f) Should an amendment to this Constitution by adding a new section to be numbered 12 to this article, as proposed by Assembly Constitutional Amendment No. 1 of the fifty-third session of the Legislature (Resolutions Chapter 58 of the Statutes of 1939), be enacted at the general election held on November 5, 1940, nothing in this section shall be construed to limit or restrict the operation of the provisions of said section 12.

**RELEASE OF ENCUMBRANCES GIVEN AS SECURITY FOR OLD AGE AID.** Assembly Constitutional Amendment 1. Adds section 12 to Article XVI of Constitution: Releases all liens, mortgages and other encumbrances taken by counties as security for aid granted to aged persons under Old Age Security Act or Old Age Security Law. Directs county boards of supervisors to execute and record appropriate instruments releasing such liens, mortgages and encumbrances.

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YES	
NO	

Assembly Constitutional Amendment No. 1--A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding a new section numbered 12 to Article XVI thereof, relating to the release of encumbrances taken as security for aid granted pursuant to the provisions of the Old Age Security Act of the State of California or the Old Age Security Law.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its fifty-third session commencing on the second day of January, 1939, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding a new section, to be numbered 12, to Article XVI thereof, to read as follows:

(This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new section thereto; therefore, the provisions thereof are printed in BLACK-FACED TYPE to indicate that they are NEW.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

**Sec. 12. All liens, mortgages and other encumbrances heretofore taken by any county as security**

for aid granted to any aged person under the provisions of the Old Age Security Act of the State of California (Chapter 530 of the Statutes of 1929, as amended), or the Old Age Security Law (Chapter 1 of Division III of the Welfare and Institutions Code), are hereby released, and shall hereafter be conclusively presumed to have been paid.

The board of supervisors of each county shall immediately execute and record appropriate instruments of release of all such liens, mortgages or other encumbrances and shall take such other steps as may be necessary to relieve the real property of the recipients of aid heretofore granted to such persons under either or both of such statutes from all obligation to repay either to the county or to the State any such aid granted to or received by any such person.

The adoption of this section is intended to effectuate the full and complete discharge and release of all encumbrances of any kind whatsoever heretofore taken or imposed upon real property in connection with aid granted to any person under the above named statutes, in so far as such release and discharge may lawfully be effectuated and notwithstanding any other provision of this Constitution.

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