

1940

## RELEASE OF ENCUMBRANCES GIVEN AS SECURITY FOR OLD AGE AID

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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.

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.

**2** **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.

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.