

1940

PROCEEDINGS FOR PUBLIC
IMPROVEMENTS OR ACQUISITION OF
PROPERTY FOR PUBLIC USE

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PROCEEDINGS FOR PUBLIC IMPROVEMENTS OR ACQUISITION OF PROPERTY FOR PUBLIC USE. Assembly Constitutional Amendment

10

79. Adds section 17 to Article XIII of Constitution. Declares proceedings undertaken by chartered cities, counties, and cities and counties for construction of public improvement, or acquisition of property for public use, or both, where cost thereof to be paid wholly or partially by special assessment or other special assessment taxes upon property, shall be only in accordance with the provisions referred to in said constitutional amendment.

YES

NO

(For full text of measure, see page 15, Part II)

Argument in Favor of Assembly Constitutional Amendment No. 79

The purpose of Assembly Constitutional Amendment No. 79 is to repair and improve what is known as the "Special Assessment Investigation, Limitation and Majority Protest Act of 1931." This Act, of which Assemblyman Frederick F. Houser and Lawrence Cobb were coauthors, provides that no special assessment district, such as the so-called "Mattoon Act" districts, can be created if a majority of the property owners involved protest, and that the total assessments against the property in the district can not equal more than 50% of the true value of the property. The debt limitation provision can be overridden by a four-fifths' vote of the governing body. The bill was so drawn as to make it apply to *chartered* and *nonchartered* cities or counties alike.

Several years after the passage of the 1931 Act the Supreme Court held the Act unconstitutional as applied to *chartered* cities. Since this decision many *chartered* cities have been totally ignoring the 1931 Act as well as the principles therein contained. The 1931 Act is constitutional as applied to *nonchartered* cities and counties and has already saved home owners and property owners millions of dollars. However, due to the Supreme Court decision the 1931 Act has partially broken down, i.e. as applied to *chartered* cities, and it should be repaired at once. This is what Assembly Constitutional Amendment No. 79 seeks to do by making the 1931 Act as nearly as possible apply to *chartered* cities and counties.

Under the above described Supreme Court decision at the present time a simple majority of the city council of a *chartered* city can

create a special assessment district, such as the so-called "Mattoon Act" districts, in spite of a 100% protest by the property owners involved and in spite of the fact that the assessments equal far more than 100% of the true value of the property in the proposed district.

The will of the majority of the property owners involved should in all fairness govern, but the records show conclusively that there have been many grave abuses by *chartered* cities where the will of even 100% of the property owners involved has been flouted and ignored.

Many special assessment districts have been created by *chartered* cities where the total assessments equal far more than 100% of the true value of the property thus ultimately resulting in the confiscation of homes.

The only way that the 1931 Act can be paired and made to work, as to *chartered* cities and counties, is by the adoption of Assembly Constitutional Amendment No. 79.

This amendment is being fought almost entirely by unscrupulous and selfish street contractors who bitterly fought the 1931 Act and have lobbied for its repeal at every subsequent session of the Legislature. These are the same contractors who are largely responsible for the evils of the so-called "Mattoon Act."

Continue to save California's home owners millions of dollars by voting "YES" on Assembly Constitutional Amendment No. 79.

FREDERICK F. HOUSER,
Member of the Assembly,
Fifty-third District.

SAMUEL W. YORTY,
Member of the Assembly,
Sixty-fourth District.

10	PROCEEDINGS FOR PUBLIC IMPROVEMENTS OR ACQUISITION OF PROPERTY FOR PUBLIC USE. Assembly Constitutional Amendment 79. Adds section 17 to Article XIII of Constitution. Declares proceedings undertaken by chartered cities, counties, and cities and counties for construction of public improvement, or acquisition of property for public use, or both, where cost thereof to be paid wholly or partially by special assessment or other special assessment taxes upon property, shall be only in accordance with the provisions referred to in said constitutional amendment.	YES	
		NO	

Assembly Constitutional Amendment No. 79—A resolution to propose to the people of the State of California an amendment to the Constitution of said State by adding to Article XIII thereof a new section to be numbered 17, relating to proceedings for public improvements.

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 in favor thereof, hereby proposes to the people of the State of California that a new section numbered 17 be added to Article XIII of the Constitution, 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 hereof are printed in BLACK-FACED TYPE to indicate that they are NEW.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

Sec. 17. All proceedings undertaken by any chartered city, or by any chartered county or by any chartered city and county for the construction of any public improvement, or the acquisition of any property for public use, or both, where the cost thereof is to be paid in whole or in part by special assessment or other special assessment taxes upon property, whether the special assessment will be specific or a special assessment tax upon property wholly or partially according to the assessed value

of such property, shall be undertaken only in accordance with the provisions of law governing: (a) limitations of costs of such proceedings or assessments for such proceedings, or both, in relation to the value of any property assessed therefor, (b) determination of a basis for the valuation of any such property, (c) payment of the cost in excess of such limitations, (d) avoidance of such limitations, (e) postponement or abandonment, or both, of such proceedings in whole or in part upon majority protest; and particularly in accordance with such provisions as contained in sections 10, 11 and 13a of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 or any amendments, codification, reenactment or restatement thereof.

Notwithstanding any provisions for debt limitation or majority protest as in this section provided, if, after the giving of such reasonable notice by publication and posting and the holding of such public hearing as the legislative body of any such chartered county, chartered city or chartered city and county shall have prescribed, such legislative body by no less than a four-fifths vote of all members thereof, finds and determines that the public convenience and necessity require such improvements or acquisitions, such debt limitation and majority protest provisions shall not apply.

Nothing contained in this section shall require the legislative body of any such city, county, or city and county to prepare or to cause to be prepared, hear, notice for hearing or report the hearing of any report as to any such proposed construction or acquisition or both.