

1970

USURY

Follow this and additional works at: http://repository.uchastings.edu/ca_ballot_props

Recommended Citation

USURY California Proposition 19 (1970).

http://repository.uchastings.edu/ca_ballot_props/737

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.

The criticisms of the system proposed for Los Angeles were discredited long ago. In any case, the bond issue lost in a vote of the people, and all Proposition 18 does is provide for a vote of the people.

Local people should make local decisions. We should not dictate to the people of any part of California what kind of local trans-

portation they shall have, and how their tax money shall be spent.

JAMES R. MILLS,
State Senator
40th Senatorial District

GEORGE W. MILIAS,
State Assemblyman
22nd Assembly District

19 USURY. Amendment of Usury Law Initiative Act, Submitted by Legislature. Deletes present misdemeanor penalty provisions for charging interest in excess of specified limits. Adds felony penalty provisions for an unlicensed or nonexempted person making or negotiating a loan providing for interest in excess of limits set by law.

YES

NO

(For Full Text of Measure, See page 2, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to amend the initiative "usury law" to change the present criminal penalty for charging interest in excess of limits set by law in the making or negotiating of a loan from a misdemeanor to a felony punishable by not more than five years' imprisonment in the state prison or not more than one year in the county jail.

A "No" vote is a vote to retain the existing criminal penalties for charging excessive interest.

For further details, see below.

Detailed Analysis by the Legislative Counsel

This measure would amend those provisions of Section 3 of the "usury law," an initiative act approved by the electors November 5, 1918, which relate to the criminal penalties for violation of that law. Those provisions now make it a misdemeanor to take or receive interest or charges on the loan or forbearance of money, goods or things in action at a rate greater than that allowed by law. Persons convicted of this offense are punished for the first offense by a fine of not less than \$25 nor more than \$300, or by imprisonment for not more than six months, or by both. For each subsequent conviction for this offense, a person is punishable by a fine of not less than \$100 nor more than \$500 and by imprisonment for not less than six months nor more than one year. Furthermore, these penalties are imposed on each member of any unincorporated company, association, or partnership, and on each officer and director of a corporation who commits this offense.

This measure, if adopted, would delete the above provisions and provide that any person, who willfully makes or negotiates, for himself

or another, a loan with interest or charges in excess of that allowed by law, is guilty of a felony, punishable by imprisonment in state prison for not more than five years or in the county jail for not more than one year. Exempted from such provision are (1) persons who are licensed to make or negotiate loans for themselves or others, (2) persons who are expressly exempted from compliance with laws of this state with respect to such license or interest or other charges, and (3) any agent or employee of such persons who is acting within the scope of his agency or employment.

Argument in Favor of Proposition 19

Proposition 19 will strike at the second largest source of revenue of organized crime by making loan sharking a felony instead of a misdemeanor.

Loan sharking is the making or negotiating of a loan by an unlicensed or non-exempt person with interest and charges in excess of limits set by law.

According to the Task Force on Organized Crime of the President's Commission on Law Enforcement and Administration of Justice, loan sharking is a multi-billion dollar operation. In addition, much of the money obtained through other illegal activities is put out to loan sharks on the street for distribution. In this way criminals make their tainted money work for them.

The poor, members of minority groups and small businessmen are the most likely victims of this criminal practice. These individuals, unable to secure loans through normal channels, fall prey to the loan sharks who charge interest rates up to 150 percent a week.

Threatened with physical injury to themselves or their families if they fall behind in

even one payment, these victims may themselves begin a life of crime in a futile attempt to repay the loan.

With the enormous profits currently obtained through loan sharking the present penalty of a misdemeanor is completely inadequate.

This legislation should not be confused with another proposition on this ballot which is sponsored by certain lending institutions for the purpose of making needed changes in the law.

Vote YES on Proposition 19.

CHARLES J. CONRAD,
Speaker pro Tempore of
the Assembly

JOHN T. KNOX,
Member of the Assembly
Eleventh District

Argument Against Proposition 19

There can certainly be no argument which defends loan-sharking in itself. I voted against this measure primarily because the bill seemed to say that any person who was not licensed by the State was prohibited from charging more than 10½ percent for any small loan.

On the other hand, if the person or company is licensed by the State, they may charge up to 36 percent interest. Why should a bank, savings and loan, or industrial loan company be able to charge people three times for their money just because the State says they can? Apparently, the State presently has the power to give a license to charge exorbitant rates of interest.

The money still comes from the pockets of low and modest income people whose only crime is not having enough money to be able to pay the sudden heavy cost of medical, home, or automobile expense.

LEO J. RYAN,
Assemblyman, 27th District

FOR THE RECREATION AND FISH AND WILDLIFE ENHANCEMENT BOND ACT. This act provides for a bond issue of sixty million dollars (\$60,000,000) to be used to meet the recreation and fish and wildlife enhancement requirements of the people of this state by planning and developing facilities for recreation and fish and wildlife enhancement purposes.

20

AGAINST THE RECREATION AND FISH AND WILDLIFE ENHANCEMENT BOND ACT. This act provides for a bond issue of sixty million dollars (\$60,000,000) to be used to meet the recreation and fish and wildlife enhancement requirements of the people of this state by planning and developing facilities for recreation and fish and wildlife enhancement purposes.

(For Full Text of Measure, See page 3, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote (a vote FOR THE RECREATION AND FISH AND WILDLIFE ENHANCEMENT BOND ACT) is a vote to authorize the issuance and sale of state bonds in total amount not to exceed \$60,000,000 for planning and developing facilities at state water projects for recreation and fish and wildlife enhancement.

A "No" vote (a vote AGAINST THE RECREATION AND FISH AND WILDLIFE ENHANCEMENT BOND ACT) is a vote to refuse to authorize the issuance and sale of state bonds for such purposes.

For further details, see below.

Detailed Analysis by the Legislative Counsel

This act, the Recreation and Fish and Wildlife Enhancement Bond Act, would authorize
(Continued on page 8, column 1)

Cost Analysis by the Legislative Analyst *

This ballot proposition authorizes a general obligation bond issue of \$60,000,000 to carry out the purposes of the existing Davis-Dolwig Act. These purposes are to pay the cost of onshore recreation facilities at the various units of the State Water Project and to provide new or increased (enhanced) fish and wildlife resources and access at reservoirs or along the waterways of the State Water Project.

The Davis-Dolwig Act states that the Legislature should appropriate General Fund money to finance recreation and fish and wildlife.
(Continued on page 8, column 2)

* Section 3566.3 of the Elections Code requires the Legislative Analyst to prepare an impartial analysis of each measure on the ballot which in his opinion involves additional cost.

19 **USURY.** Amendment of Usury Law Initiative Act, Submitted by Legislature. Deletes present misdemeanor penalty provisions for charging interest in excess of specified limits. Adds felony penalty provisions for an unlicensed or nonexempted person making or negotiating a loan providing for interest in excess of limits set by law.

YES

NO

(This law proposed by Assembly Bill 1868, 1970 Regular Session, expressly amends an existing section of the usury law; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BOLDFACE TYPE**.)

PROPOSED LAW

An act to amend an initiative act entitled "An act, to be known as the usury law, relating to the rate of interest which may be charged for the loan or forbearance of money, goods or things in action, or on accounts after demand, or on judgments, providing penalties for the violations of the provisions hereof . . ." approved by electors November 5, 1918, by amending Section 3 thereof relating to the law of usury, said amendments to take effect upon the approval of the electors.

Section 1. Section 3 of the act is amended to read:

Sec. 3. (a) Every person, company, association or corporation, who for any loan or forbearance of money, goods or things in action shall have paid or delivered any greater sum or value than is allowed to be received under the preceding sections, one and two, may either in person or his or its personal representative, recover in an action at law against the person, company, association or corporation who shall have taken or received the same, or his or its personal representative, treble the amount of the money so paid or value delivered in violation of said sections, providing such action shall be brought within one year after such payment or delivery. ~~And any person, company, association or corporation, who shall ask, demand, receive, take, accept or charge more than twelve per centum per annum upon the sum of money actually loaned for the forbearance, use or loan thereof, when the repayment of the money loaned shall be secured by a mortgage, trust deed, bill of sale, assignment, pledge, receipt or other evidence of debt, except corporation bonds, and municipal and other public bonds, upon property, real or personal or by assignment of wages, or ask, demand, receive, take, accept or charge more than an amount equal to five per cent so actually loaned and secured in all sums of one thousand dollars or less, and three per cent on all sums over one thou-~~

~~sand dollars in full for all examinations, views, fees, appraisals, commissions, renewals made within one year from date of loan and charges of any kind or description whatsoever, except abstracts or certificates of title charges made under the Torrens land law or otherwise, in the procuring, making and transacting of the business connected with such loans, or who shall ask, demand, receive, take, accept or charge any fee, bonus or commission whatsoever for the use or loan or the procuring of such loan of any sum of money for a shorter period than six months when said loan is not secured by a mortgage or pledge upon real estate, or shall violate the provisions of sections one and two of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine of not less than twenty-five dollars nor more than three hundred dollars, or by imprisonment not more than six months, or by both such fine and imprisonment, and for each subsequent offense and conviction shall be punished by a fine not less than one hundred dollars nor more than five hundred dollars and by imprisonment not less than six months nor more than one year. The penalties herein provided for the violation of this section and said sections one and two shall apply to and be imposed upon each member of any unincorporated company, association, or of any co-partnership and upon each officer and director of a corporation who shall violate either of said sections.~~

(b) Any person who willfully makes or negotiates, for himself or another, a loan of money, credit, goods, or things in action, and who directly or indirectly charges, contracts for, or receives with respect to any such loan any interest or charge of any nature, the value of which is in excess of that allowed by law, is guilty of loan-sharking, a felony, and is punishable by imprisonment in the state prison for not more than five years or in the county jail for not more than one year. This subdivision shall not apply to any person licensed to make or negotiate, for himself or another, loans of money, credit, goods, or things in action, or expressly exempted from compliance by the laws of this state with respect to such licensure interest or other charge, or to any agent or employee of such person when acting within the scope of his agency or employment.