

Reitman v. Mulkey, 387 U.S. 369 (1967). After the 1963 California legislature, by nearly party-line votes, passed the Rumford Act prohibiting racial discrimination in the sale or rental of part of the state's housing, the California Real Estate Association sponsored Proposition 14, a state constitutional amendment banning fair housing measures by California state or local governments. Strongly supported by the Republican party, Proposition 14 was ratified by the state's voters in November, 1964, by nearly two to one. The NAACP's challenge to Proposition 14 failed in Orange County, but its appeal succeeded, by five votes to two, in the California Supreme Court and by five to four in the U.S. Supreme Court. For the majority, Justice Byron White affirmed the California court's findings that Proposition 14's repeal of an anti-discrimination law had a racially discriminatory purpose and made the state effectively a sponsor of discrimination. In dissent, Justice John M. Harlan was not convinced of Proposition 14's discriminatory purpose and feared that the Court's decision would actually increase racial discrimination, because if a state could not repeal an anti-discrimination statute, it might not pass one in the first place. Since 1967, housing discrimination has lessened, but not disappeared. Although the decision has never been explicitly overruled, it was silently sidestepped when the Ninth Circuit Court of Appeals, with the Supreme Court's acquiescence, rejected a challenge to California Proposition 209, which banned affirmative action to overcome past and present racial discrimination.

Bibliography

Casstevens, Thomas W. *Politics, Housing, and Race Relations: California's Rumford Act and Proposition 14*. Berkeley: Institute for Governmental Studies, 1967.

Karst, Kenneth L. And Harold W. Horowitz. "Reitman v. Mulkey: A telophase of Substantive Equal Protection." *Supreme Court Review* (1967): 39-80.

Note: I think this is an important enough case, and one that is rarely discussed and often misinterpreted, to justify discussion of the rationales of the opinions and the contrast with the decision in the Prop. 209 case. I hope that my treatment might inspire some readers to want to find out more about the case and the context. But if you insist on the 100 word limit, you can just cut everything after the announcement of the 5-4 vote.