The Story of the 1967 California Legislature

A Report of the FRIENDS COMMITTEE ON LEGISLATION OF CALIFORNIA

SENATORIAL DISTRICTS
FAIR HOUSING

Undoubtedly one of the most mixed-up situations that ever occurred in the California legislature happened during this year's battle over the state's fair housing laws.

The session started poorly from the standpoint of fair housing advocates. They had not yet established their own, positive, program for the session, and the opponents of fair housing got the jump on them. The first bill introduced in the Assembly was AB 1 (Badham, R., Newport Beach), for repeal of the Rumford Act; opponents in the Senate were only a little bit slower with an identical measure, SB 9 (Schmitz, R., Tustin).

Certainly the general atmosphere around the Capitol was such that there appeared to be absolutely no chance of strengthening the fair housing laws in this session. It appeared doubtful whether minority groups and their allies even could hold the line on what they had. Part of the fair housing supporters' delay in developing a positive legislative program in the area of housing discrimination resulted from disagreement among them as to whether to take a defensive or aggressive stance in the legislature.

GOVERNOR'S COMMISSION

Also, equal rights leaders were awaiting the report of the Governor's Commission on the Rumford Act.

The Commission was appointed by Governor Brown in September, 1966, after the California Supreme Court had declared Proposition 14 invalid. The Commission, representing a cross-section of public opinion in California, was asked to examine the operation of the Rumford Act and to "examine this material in the broader context of the national commitment to an open society and the need to reduce racial tensions, frustrations, and fears."

Governor Reagan asked the Commission to continue its work and appointed a representative to attend its meetings as an observer. The Commission made its final report and recommendations to the Governor on April 6.

ECHOES OF PROP. 14

Opponents of fair housing hammered away on the theme that the vote for Proposition 14, a 1964 ballot proposal to write into the State constitution a prohibition against state action in the field of housing discrimination, constituted a mandate for repeal of the Rumford Act, the state's chief fair housing law.*

The fight against the Rumford Act was led by the California Real Estate Assn. In fact, throughout the whole session it was almost a lone lobbying group against the housing discrimination law. Groups and individual citizens coming to the defense of the Rumford Act, on the other hand, were numerous and active.

The Governor was opposed to the Rumford Act but said that he would await the decision on a challenge to the constitutionality of Proposition 14, then before the U.S. Supreme Court, before taking a position on legislation in this area.

*The FCL pointed out that 41 of the 61 Assemblymen who voted for the Rumford Act in 1963 had survived two elections since then, three of them having gone on to higher elective office. Of the 20 "yes" voters not in elective office in 1967, three did not run for re-election, four were appointed to the bench. Of the 14 defeated at the polls, some have been replaced by legislators who also support fair housing laws, some clearly suffered from political disabilities in their campaigns that had nothing to do with their fair housing votes. It is not certain that the Rumford Act vote played a major role in any of the 13 defeats suffered by 1963 Assemblymen. The Senate was reapportioned in 1966, so that a similar 1963-1967 comparison cannot be made.

FIRST HEARING

The first hearing on anti-Rumford Act legislation came on March 15, when the Senate Committee on Governmental Efficiency took up SB 9 and Schmitz' SB 14, to repeal those sections of the Unruh Civil Rights Act which deal with discrimination in the real estate industry. Debate was limited to 10 minutes each for proponents and opponents. Former Assemblyman Byron Rumford presented the case against both bills.

Committee members raised constitutional questions in regard to SB 14 because of the similarity of its wording to language in Proposition 14, then still before the court. On a motion by Senator Alan Short (D., Stockton), SB 14 was held in committee.

SB 9 was taken under submission on a motion by Senator Walter Stierl (D., Bakersfield). Taken under submission, the bill could be taken up again at a later date by the committee. Before the vote on this motion was taken, Senator Hugh Burns (D., Fresno) said that he was in favor of repealing the Rumford Act, but that the committee should take a look at other bills on fair housing then before the Assembly before making its decision.

TAKEN BY SURPRISE

These remarks led fair housing supporters to believe that the Senate Governmental Efficiency Committee would not act on SB 9 until it had the Assembly bills before it. They were taken by surprise when, on April 5, without further notice, and on a day of otherwise routine business, Senator Burns was amended in as author of SB 9 in place of Schmitz, the legislature's only avowed member of the John Birch Society and the bill was then sent to the Senate floor with a "do pass" recommendation.

When SB 9 was brought up for a vote in the Senate, the report of the Governor's Commission on the Rumford Act had been before the Governor for a week. No public mention was made of this, however, and few if any legislators knew that the document existed.

Fair housing supporters secured copies of the report, which upheld the need for fair housing laws and made recommendations, many of which fair housing proponents felt they could live with. These copies were distributed to legislators who would carry the debate against SB 9.

On the Senate floor on April 13, Senator Burns based his arguments for SB 9 squarely on the 2-1 margin for Proposition 14 in the November, 1964 election. Every county but one, and most legislative districts, supported Proposition 14, he pointed out. He said that there already were adequate laws against racial discrimination "when we went on this racial kick."

Opponents of SB 9 angrily protested against the "racial kick" remark. "The racial kick started 350 years ago when the Negroes were landed at Jamestown in chains," Senator Nicholas Petris (D., Oakland) said.

After an hour and a half of debate, the Senators voted 23 - 15 for the bill (see voting record). SB 9 then went to the Assembly where it was assigned to the Committee on Governmental Efficiency and Economy.

SIX BILLS

Already before Assembly GEE were AB 1 and five other bills having to do with discrimination in housing. These were AB 729 (Bagley, R., San Rafael), AB 2249 (Miller, D., Berke-
AB 2599 (Elliott, D., LA), AB 2502 and AB 2503 (both Sieroty, D., Beverly Hills).

Bagley, who voted for the Rumford Act and opposed Proposition 14, introduced AB 729, he said, to meet major objections to the Rumford Act and to forestall complete repeal of that law. AB 729 as introduced would have:

1. deleted coverage of housing solely on the basis that it was publicly assisted,

2. redefined a multiple dwelling for purposes of coverage as one of five units or more instead of three units or more,

3. permitted the accused property owner to have the proceedings against him removed from the Fair Employment Practices Commission to the courts,

4. provided for damages up to $500 where the owner is found to have discriminated,

5. permitted the levying of costs up to $500 against the complainant if he really did not want to buy or rent or was acting without a belief, or reason to believe, that the owner was discriminating.

Equal rights groups opposed AB 729 on the grounds that it would drastically weaken both Rumford Act coverage and enforcement.

Miller's AB 2249 was the bill favored most by equal rights groups. Its major thrust was to extend Rumford Act coverage to any transaction with respect to housing accommodations in which a real estate broker or salesman participated. Most of those active in the 1967 legislative struggle for fair housing felt that the most effective move would be such a ban on transactions in which members of the real estate industry, who are state licensees, are involved.

AB 2599 embodied the recommendations of the Governor's Commission on the Rumford Act.

The Commission urged that the Rumford Act be replaced by an Equal Housing Opportunities Act. That enforcement of the Act should be vested in a Commission on Equal Housing and a Department of Equal Housing Opportunities, and that there should be substantial changes in coverage, procedures and enforcement.

Finding that, on the whole, the Commission's recommendations were good but seriously questioning some of them, equal rights groups took no position on AB 2599.

AB 2502 and 2503 (both Sieroty, D., Beverly Hills), as amended, would have broadened the FEPC powers to investigate and to seek to prevent discrimination in housing through education and persuasion. AB 2502 also would have required that all FEPC hearings be conducted by a hearing officer under provisions of the Administrative Procedure Act. Sieroty's proposals were considered "good" proposals by fair housing proponents.

**MAY 17 RALLY**

The Assembly Governmental Efficiency and Economy Committee scheduled a hearing on all of the bills for May 17, which happened to be the anniversary of the U.S. Supreme Court decision on the desegregation of schools in 1954.

The committee listened for hours to authors of bills and witnesses, and questioned them with strong interest. All of the bills were taken under submission — meaning that a decision could be made later — except SB 9.

Senator Burns presented amendments to SB 9 which, he said, had been given him by the California Real Estate Assn. The amendments would have only have demolished the Rumford Act but would also have cut deeply into the Unruh Act, which forbids discrimination in business. In effect, the CREA amendments would have carved out an area of special privilege in the Unruh Act for real estate businessmen.

No committee member moved to take these amendments under submission.

During the hearing Assemblyman Leroy Greene (D., Sacramento) asked witnesses from the CREA and the Apartment House Owners' Assn. whether they could cite any instances in which any persons had been harmed by the Rumford Act. They were unable to cite any.

**PRESSURES MOUNT**

Six weeks passed without any action by the committee on the fair housing bills. As the end of the session came near, the possibility grew that the bills would still be in committee when the legislature adjourned. If that happened, the Rumford Act would still be in effect and unchanged.

However, pressure on the committee from opponents of the Rumford Act grew. Pressure also came from Assemblyman Jesse Unruh (D., Inglewood, Speaker of the Assembly). The committee met in executive session. Finally Assemblyman
Lester McMillan (D., LA), chairman of Assembly GEE, announced that his committee would take up the housing bills for action at a night meeting on July 28.

Not all of the pressure for action on the fair housing bills came from those who were pressing for repeal or weakening of anti-discrimination legislation. Pressure also came from those who support strong fair housing action but who feared that unless some modifications of the Rumford Act were brought to the Assembly floor, opponents of fair housing could force a vote on outright repeal there.

This could be done by amending Rumford Act repeal into some other bill having to do with the Health and Safety Code, of which the Rumford Act is a part. In a public showdown on the repeal issue, most Assemblymen would vote for repeal, it was said. Only 17 of the 80 Assemblymen could be counted on to vote “no”, according to liberal legislators who counted themselves among the 17.

**LEGISLATIVE PANIC**

In this atmosphere of legislative panic, pressure for the Bagley bill or some similar measure was viewed by many as the only way to avoid complete disaster. Beyond the legislature also loomed the threat of an initiative campaign to repeal the Rumford Act, voiced on May 18 by the president of the CREA, if the session ended without action on the issue.

Because of the strong support for fair housing among the members of the Assembly GEE committee, there was little chance for SB 9, AB 1 or any other Rumford repeal measure to get out of the committee. AB 729 remained, up to the last days of the session, the chief contender for legislative approval.

The July 28 meeting lasted for three and a half hours, with sometimes bitter exchanges between pro-Rumford and anti-Rumford members of the committee. Before the committee for consideration was a proposal by Assemblyman Bagley to amend major provisions of his AB 729 into another legislator’s bill, namely Senator Burns’ SB 9. Bagley said that he had assurance from Burns that the latter would urge Senate concurrence in the Bagley version of SB 9. If the bill passed the Assembly without further amendment.

Bagley sought not only to put AB 729 provisions into the Burns bill but also proposed that the Unruh Civil Rights Act be changed to apply to the real estate business only when a transaction involved five or more units.

Unruh earlier had said that he favored such a change. To fair housing advocates, cutting into Unruh Act coverage was completely unacceptable. Not only would this be a blow to anti-discrimination efforts, but why, they asked, should state licensees be given an exemption from the requirement that all people be served equally?

**CRITICAL VOTE**

A critical vote came on a motion by Assemblyman Willie L. Brown, Jr. (D., SF), seconded by Assemblyman John Miller (D., Berkeley), to include in the Bagley-Burns measure a provision making it unlawful for any real estate broker or salesman to discriminate in the conduct of his business or to discriminate upon instructions of an owner. On this amendment Assemblyman James W. Dent (R., Concord) sided with the four strong fair housing supporters on the committee — Assemblymen Yvonne W. Brathwaite (D., LA), Brown, McMillan and Miller — to provide a 5-4 majority for adoption.

This amendment became a key issue in the battle over SB 9 thereafter. If it meant that discrimination was prohibited in all real estate transactions in which brokers or salesmen were involved, then that one provision of the Bagley-Burns bill alone might carry more anti-discrimination effectiveness than the original Rumford Act, which does not include such a complete ban on discrimination by realtors.

The vote in committee on a “do pass” recommendation for the new SB 9 was predictable and came almost as an anticlimax: YES — Badham, Crandall, Dent, L. Greene, Priolo. NO — McMillan, Brathwaite, Brown, Miller.

Because of the Brown-Miller amendment, most fair housing advocates dampened their opposition to the Bagley-Burns bill or moved to a “support” position. The FCL continued to urge that any fair housing bill should (1) cover all publicly assisted housing, (2) cover all real estate transactions in which state-licensed brokers or salesmen participated, (3) leave the Unruh Civil Rights Act intact.

**MOST ACTIVE**

Most active in opposition to the new SB 9 were, on the one hand, the CREA, which saw the Brown-Miller amendment, as well as other provisions, “worse than the Rumford Act itself,” and, on the other, the American Civil Liberties Union. The ACLU claimed that the Brown-Miller amendment fell short of its intent, forbidding a realtor to discriminate but permitting the owner to discriminate while the realtor participated in the transaction. It also claimed that the Bagley inroads into the Rumford and Unruh acts were far more sweeping than was commonly recognized.

The Bagley-Burns bill was also opposed by those who wanted to repeal the Rumford Act entirely and refused to accept any modification of it.

The votes on the new SB 9 on both the Assembly floor and the Senate floor cut across the usual division between those who are “for” and “against” fair housing. Senator George Danielson (D., LA) probably voted the general mix-up best when he stopped a fair housing supporter in a capitol hallway and asked, “Will you please explain to me what kind of a schizophrenic game is being played around here?”

**DEADLOCKED (ALMOST)**

From the Assembly Committee on Governmental Efficiency and Economy the Bagley-Burns bill went to the Assembly Committee on Ways and Means, where it was heard on August 1. This committee deadlocked 9-9 on the issue. (The 19th member, Assemblyman Stewart Hinckley (R., Redlands) was absent because of illness). For a while, as procedures stalled and members stood around in small groups, debating, it appeared that SB 9 might die.

However, Speaker Unruh appeared and joined the discussions, inaudible to the audience. Soon business resumed; the motion for a “do pass” recommendation was withdrawn and SB 9 was sent to the Assembly floor without recommendation — a procedure that seldom is used.

**REPEAL VOTE**

The bill passed the Assembly the next day, August 2, after a hot debate and an attempt to amend it to outright repeal of the Rumford Act. The repeal amendment was handled by Assemblyman Joe A. Gonsalves (D., Norwalk) but lost by a vote of 28-42. The vote to pass the Bagley-Burns bill was 46-32.

YES:

Badham, Bagley, Barnes, Bee, Belotti, Beverly, Biddle, Britschgi, Cory, Crandall, Cullen, Davis, Deddeh, Dent, Duffy, Fenton, Foran, Gonsalves, L. Greene, Hayes, H. Johnson, Karabian, Ketchum, MacDonald, McGee, Meyers, Milius, Mobley, Moretti, Murphy, Negri, Pattee, Powers, Quimby, Ryan, Shoemaker, Stacey, Stull, Thomas, Townsend, Veneman, Veysey, Wilson, Z’berg, Zenovich, and Unruh.
NO:

INDUSTRY PROPOSALS
Assemblyman Peter F. Schabarum (R., Covina) presented amendments going far beyond the Bagley-Burns provisions, virtually destroying all effectiveness of the housing discrimination statutes. His amendments, which he admitted came from the real estate industry, also were voted down 21-52:

YES:

NO:

BACK TO SENATE
SB 9 returned to the Senate for concurrence in the Assembly amendments. Governor Reagan issued a statement in support of what he referred to as the “Burns-Bagley Act” saying that “to do nothing on this subject would leave the Rumford Act on the law books of California — an action which is obviously contrary to the wishes of the electorate . . . It (the Bagley-Burns Act) is not a perfect solution, but it is a step in the right direction.” Burns, however, announced that he would try to kill the bill.

Anticipating a Burns move to refer SB 9 to the Senate Rules Committee, where it could be held until the end of the session, Senator Alfred H. Song (D., Monterey Park) made a motion to suspend the Senate rule under which any Senate bill heavily altered in the other house goes almost automatically to a Senate committee. The motion, after a battle, lost by a vote of 14-20. During the floor debate, Burns promised to call the rules Committee into prompt session and to abide by its majority decision. The Senate then voted, 35-2, with Senators Moscone (D., SF) and Short (D., Stockton) the only dissenters, to send SB 9 to Rules.

It was now Friday, August 4, the final day of the session. However, the legislature stopped its clocks, and the last legislative day extended over three calendar days, through August 6.

From Rules the bill came back with a recommendation for non-concurrence in the Assembly amendments. The Senate voted non-concurrence by a 7-24 vote, the first and only Senate vote on the Bagley version of the former Burns-Schmitz bill:

YES (for concurrence):
Alquist, Bellenson, Mills, Petris, Sherman, Short, and Song.

NO (against concurrence):
Bradley, Burgener, Burns, Collier, Coombs, Cusanovich, Deukmejian, Dills, Grunsky, Harmere, Kennick, Lago-

marsino, Marler, McCarthy, Moscone, Richardson, Schmitz, Schrade, Stevens, Stern, Teale, Walsh, Way, and Whetmore.

REJECTED
Rejection of the Assembly amendments to SB 9 meant that a conference committee of three members of each house would be named to try to negotiate an agreement. Named to the conference committee were Senators Jack Schrade (R., San Diego), William E. Coombs (R., Rialto), and Song, and Assemblymen Bagley, Brown and Bob Moretti (D., Van Nuys). Two conferees from each house would have to approve any conference committee report.

The Governor’s office participated actively in a proposal which emerged early on Sunday morning. However, only Bagley and Coombs would sign it. Finally, on Sunday afternoon it was announced that the conference committee could not reach agreement and SB 9 was dead.

The session thus ended a few hours later with the Rumford Act and the Unruh Civil Rights Act still intact.

FARM LABOR LOSES
Farm labor, making great gains in the vineyards, fields and orchards through the organizing efforts of dedicated men and women, made no gains this year in the legislature. In fact, legislatively it lost ground.

Farm workers lost their recognition as equal citizens under the state’s anti-discrimination statutes.

Assemblyman Willie L. Brown, Jr. (D., SF) introduced AB 205 to extend coverage under the Fair Employment Practice Act for agricultural workers beyond the September, 1967 deadline. This bill passed the Assembly, 55-14, but died in the Senate Committee on Agriculture. Farm Labor thus no longer is under fair employment provisions.

JOBBLE INSURANCE
Four bills before the legislature would have extended unemployment insurance to farm workers. They were AB 308 (Foran, D., SF), AB 754 (Negri, D., Granada Hills), AB 937 (Burton, D., SF) and AB 1634 (Brathwaite, D., LA).

Foran’s bill would have limited jobless payments to farm workers who earned at least $50 in each of the three quarters of the year on which their eligibility was based. Negri’s would have limited coverage to those with earnings of at least $100 in each of three quarters or $1,000 in any one quarter.

The FCL, believing that farm workers should receive protection against want during times of unemployment on the same basis as other workers, opposed the limitations on eligibility embodied in the two bills. It favored AB 1634, Mrs. Brathwaite’s bill.

AB 1634, sponsored by the Teamsters Union, would have removed the exclusion of farm workers from jobless benefits with only one restriction. A jobless farm worker would not be able to draw benefit checks if he were not a resident of the state at the time he filed his claim. This restriction would be lifted if the exclusion of farm labor under the federal U.I. law were removed. The bill also would have required employers who are now exempt under the federal U.I. law to pay a tax — 0.4% of payroll — already paid by covered employers.

Burton’s AB 937 would have extended U.I. coverage not only to farm workers but also to domestic servants, government employees, employees of certain nonprofit organizations and employees of political candidates or campaign committees. Because of its sweeping provisions, it was never considered “in the running” for passage.