

REITMAN ET AL. v. MULKEY ET AL.

CERTIORARI TO THE SUPREME COURT OF CALIFORNIA.

No. 483. Argued March 20–21, 1967.—Decided May 29, 1967.

The California Legislature, during the period 1959–1963, enacted several statutes regulating racial discrimination in housing. In 1964, pursuant to an initiative and referendum, Art. I, § 26, was added to the state constitution. It provided in part that neither the State nor any agency thereof "shall deny, limit or abridge, directly or indirectly, the right of any person, who is willing or desires to sell, lease or rent any part or all of his real property, to decline to sell, lease or rent such property to such person or persons as he, in his absolute discretion, chooses." The California Supreme Court held that Art. I, § 26, was designed to overturn state laws that bore on the right of private persons to discriminate, that it invalidly involved the State in racial discrimination in the housing market and that it changed the situation from one in which discriminatory practices were restricted to one where they are "encouraged," within the meaning of this Court's decisions. The court concluded that Art. I, § 26, unconstitutionally involves the State in racial discrimination and is therefore invalid under the Equal Protection Clause of the Fourteenth Amendment. Held: The California Supreme Court believes that Art. I, § 26, which does not merely repeal existing law forbidding private racial discrimination but authorizes racial discrimination in the housing market and establishes the right to discriminate as a basic state policy, will significantly encourage and involve the State in private discriminations. No persuasive considerations indicating that the judgments herein should be overturned have been presented, and they are affirmed. Pp. 373–381.

-White, Byron Raymond (Judge), Supreme Court of the United States (Author), "U.S. Reports: Reitman v. Mulkey, 387 U.S. 369 (1967)" (1966) excerpt.