

California Summary

I. Housing

CA CONST 1879 Art 1 § 17

Summary of Facts and Issues

Foreigners of the white race or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this state, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of property as native-born citizens.

Impact of the Law

Citizenship had been defined as white in the first state constitution, but in 1879, the definition expanded to include people of African descent who were deemed eligible to become citizens of the US could also inherit property, but this did not apply to all white people who were non-citizens, nor all Black people -- only those eligible by way of US naturalization laws and they had to establish residence in the state.

Williams v. Young (1861) 17 Cal. 403

Summary of Facts and Issues

According to the judgment: [Defendant] "and her late husband were mulattoes; and the point was made below that the Homestead Act did not apply to such persons. But, even if the plaintiff, claiming through her husband, could raise this objection, we think there is nothing in it. Neither the Constitution nor the act of the Legislature makes a distinction in this respect, and the Courts have no authority to do so."

Impact of the Ruling

This case served as a challenge to the **Homestead Act** (1862) that provided for the expansion of US territory into the west. This law excluded black people. BB Young (deceased) husband of the defendant - Shasta County - Young and his wife had occupied a homestead since 1855 (she occupied the land after he died) - Court ruled that they could not have been homesteaders because it was against California law for them to do so in the first place since they were biracial, Black and white. The court also said that the land was owned by Williams, who acquired the property legally, through the Sheriff, who had sold it on a lien for outstanding debt.

Gandolfo v. Hartman (9th Cir. 1892) 49 F. 181

Summary of Facts and Issues

"It would be a very narrow construction of the constitutional amendment in question and of the decisions based upon it, and a very restricted application of the broad principles upon which both the amendment and the decisions proceed, to hold that, while state and municipal legislatures are forbidden to discriminate against the Chinese in their legislation, a citizen of the state may lawfully do so

by contract, while the courts may enforce. Such a view is, I think entirely inadmissible. Any result inhibited by the constitution can no more be accomplished by contract of individual citizens than by legislation, and the courts should no more enforce the one than the other. This would seem to be very clear."

Impact of the Ruling

While this case would have set a precedence to overturn legalized discrimination in housing, it did not. Since the court ruled that individual property owners could discriminate, it set in motion ways to keep black, white, and other people of color from buying, selling, or leasing property in neighborhoods that were predominantly white, but also kept neighborhoods homogeneous in terms of racial backgrounds. The long-term effects of this also meant that schools and other public facilities would remain segregated for several generations to come. Even after restrictive covenants were declared unconstitutional and legalized segregation had ended, neighborhoods and schools had not been properly/fully integrated, and public resources flowed into white neighborhoods, but overlooked neighborhoods of color.

Ex Parte Hadacheck (1913) 165 Cal. 416, 422-23

Summary of Facts and Issues

"The power to regulate the use of property or the conduct of a business is, of course, not arbitrary. The restriction must bear a reasonable relation to some legitimate purpose within the purview of the police power." And, "The case, therefore, is in no way analogous to those in which an ordinance, although, perhaps, fair upon its face, has been set aside because of a showing that it was administered in such a manner as to discriminate unjustly against a particular race (*Yick Wo v. Hopkins*, 118 U.S. 356, [30 L. Ed. 220, 6 Sup. Ct. Rep. 1064]), or because the facts surrounding the adoption of the ordinance showed that its real purpose was not to protect the public welfare but to deprive a specific individual of the right to use his property in a lawful way. (*Dobbins v. Los Angeles*, 195 U.S. 223, [49 L. Ed. 169, 25 Sup. Ct. Rep. 118].) The facts before us would certainly not justify the conclusion that the ordinance here in question was designed, in either its adoption or its enforcement, to be anything but what it purported to be, viz., a legitimate regulation, operating alike upon all who come within its terms."

Impact of the Ruling

The owner of a parcel of land in Los Angeles was prevented from using his land to produce bricks. There was a city ordinance forbidding brickmaking within a defined portion of the city. Brickmaking would have been the most profitable way for the landowner to use the land. The landowner sued to have the ordinance struck down. The Court ruled against the landowner, reasoning that it was within the city of Los Angeles's power to regulate brickmaking in such a way, in such a location, because of the undue annoyance and/or health hazards to people living in the area. The landowner argued the ordinance existed for the purpose of discrimination against particular races, although it was "fair upon its face." This was similar to the findings in *Yick Wo v. Hopkins*. Here, the Court found that the City of Los Angeles applied the ordinance in select instances because, in those instances, the would-be offender was acting

in a more residential setting, which would be more offensive to residents. Enforcing the City of Los Angeles's ordinance barring brickmaking in certain locations could potentially present the opportunity for discrimination. The racial implications of this case depend on how consistent the City is with enforcing the ordinance, whether it enforces it more often on brickmakers in residential neighborhoods, and/or on people of color regardless of where their property is zoned.

Civ. Code, § 51 (West)

Summary of Facts and Issues

California law prohibiting discrimination "on the bases of race, color, religion, ancestry, or national origin to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever." A California version of the ADA, allowing for compensatory damages for violations.

Impact of the Law

Prior to the adoption of the Unruh Act, the California Legislature had chosen not to regulate the conduct of property owners in selecting their buyers or tenants whether or not the choice was based on race, color or creed. By the enactment of the Unruh Act in 1959, the Legislature chose to regulate racial and religious discrimination by persons in "business establishments of every kind whatsoever," including persons engaged in the business of selling or renting residential property, brokers and others.

Burks v. Poppy Const. Co. (1962) 57 Cal.2d 463

Summary of Facts and Issues

"Plaintiffs, members of the Negro race, brought this action for damages and injunctive relief alleging discrimination with respect to the sale of a house in a tract. The first cause of action is based on the **Unruh Civil Rights Act (Civ. Code, §§ 51 and 52, as amended in 1959)**, which deals with discrimination in "business establishments," and the second is based on the **Hawkins Act (Health Saf. Code, §§ 35700-35741, added in 1959)** which relates to discrimination in "publicly assisted housing accommodations."

Impact of the Ruling

This was the first State Supreme Court case that interpreted **California's Civil Code section 51 (Unruh)**.

Also the Court held that Unruh allowed for the election of remedies by Plaintiffs.

Black Plaintiffs alleged racial discrimination by Defendants, building developers responsible for sales of publicly assisted houses in a tract of land, which was publicly available and advertised, in violation of the **Unruh** and **Hawkins Acts**. Holds that **Hawkins Act** cannot be applied retroactively. This case made a connection between discrimination by property owners of publicly assisted housing and state action. California Supreme Court's decision about the *applicability* of the **Unruh Act** to real estate transactions, and that prohibition of discrimination on the basis of race by owners of publicly-assisted housing is not a

constitutional violation of the owners' rights. **Unruh** applies to real estate transactions expressly, as "business establishments." Holds that **Unruh's** use of terms such as "all" and "of every kind whatsoever" in terms of which businesses it applied to, without any kind of exceptions, meant it was to be applied in a broad sense.

Lee v. O'Hara (1962) 57 Cal.2d 476

Summary of Facts and Issues

"Plaintiff is a citizen of the United States and of the State of California and is a member of the Negro race. Defendants, who are licensed real estate brokers with offices in San Francisco, were retained in that capacity to rent certain described premises to any member of the public ready, willing, and able to rent such premises upon the terms offered."

Impact of the Ruling

California Supreme Court case that applied the applicability of the **Unruh Act** to real estate brokers, acting in their professional capacity, to prohibit racial discrimination in the business of leasing or selling housing. The **Unruh Act** applies to real estate brokers when acting in their professional capacity. Defendants argued that because they were acting as agents on behalf of property owners, they required consent by all parties to rent to Plaintiff - who was Black. Since such consent was not proven, they could not be accused of denying services to Plaintiff on the basis of race.

The Court rejected the argument, holding that because real estate brokers act on behalf of property owners/sellers/landlords, and property owners are prohibited from discriminating on the basis of race, Unruh must also apply to them.

Civ. Code § 52 (West)

Summary of Facts and Issues

California state law prohibiting discrimination on the basis of race in the sale or rental of publicly assisted housing accommodations and in any private dwelling containing more than four units.

*Replaced the **Hawkins Act**, expanded protections to housing generally, and allowed for an administrative remedy for housing discrimination.

Impact of the Law

Amended in 1977 to allow for 'actual and punitive damages,' and damages were permitted to be awarded on a cumulative, rather than alternative, basis.

Cal. Health & Safety Code § 35720 (West)

Summary of Facts and Issues

California law prohibiting owners of housing accommodations that receive "public assistance" (read: government financing to build / maintain publicly available housing) from discriminating against prospective tenants or buyers on the basis of race.

Impact of the Law

***Repealed and replaced by the Rumford Fair Housing Act in 1963.**

California state law that provided that it is unlawful for an "owner" of "publicly assisted housing accommodation," with knowledge of such assistance, to discriminate against any person because of his race, color, religion, national origin, or ancestry in connection with the rental or sale of the housing accommodation."

California Proposition 14 (1964)**Summary of Facts and Issues**

This proposition was a California addition to the state constitution that created a state constitutional right for persons to refuse to sell, lease, or rent residential properties to other persons (on the basis of race) - voiding the **Rumford Fair Housing Act**.

Impact of the Proposition

This case was overturned by **Mulkey v. Reitman** (Cal.) / **Reitman v. Mulkey** (U.S.)

Over 65% of CA California voters approved Proposition 14 in 1964. The law prohibited the state from putting restrictions in place that would prevent private individuals from discriminating in the rental, sale, or leasing in housing. Because the effect of Proposition 14 was to void the **Rumford Fair Housing Act**, Proposition 14 essentially protected housing discrimination on the basis of race.

Mulkey v. Reitman (1966) 64 Cal.2d 529**Summary of Facts and Issues**

"It is immediately apparent from the operative portion of the instant constitutional amendment that it is mechanically impossible to differentiate between those portions or applications of the amendment which would preserve the right to discriminate on the basis of race, color or creed, as distinguished from a proper basis for discrimination. The purported preservation of the right to discriminate on whatever basis is fully integrated and, under the rule of Blaney, not severable."

Impact of the Ruling

"Cal Supreme Court overturned a California constitution article that prohibited the state from restricting a property owner/landlord's right to exclude by refusing to sell or rent to qualified citizens at the owner's complete discretion (here, race) was a violation of equal protection under the Fourteenth Amendment.

This case centered on state Proposition 14 (1964), which added a provision that prevented the state from denying the right of any person to refuse to rent, sell or lease property to any individual at their discretion. The court only considered the application of the law from a federal constitutional perspective in the context of the Supremacy Clause of article 26. Invoked the 1959 **Unruh Act**, the **Hawkins Act** (1959), and the **Rumford Fair Housing Act** (1963).

Plaintiffs argued that **Proposition 14** was enacted with the intent to overturn those state laws and could not be reconciled with the mandate outlined in the Fourteenth Amendment. The court conceded, stating that generally, private contracts/agreements/conduct cannot be found to be discriminatory by the state but that affirmative state conduct (such as enforcing such private conduct or enacting laws that promulgate discrimination) is a violation of the constitution.

This opinion points to many other cases along this line of questions about: "private discrimination." The defendants refused to rent unoccupied apartments to plaintiffs simply because they were Black. The court reversed the order in favor of the plaintiffs.

The court found that **California Constitution Article 1, section 26**, which made it legal for people to decline housing sales according to their discretion, was in fact illegal as it denied plaintiffs rights guaranteed by the **14th Amendment**.

Hill v. Miller (1966) 64 Cal.2d 757

Summary of Facts and Issues

"We have concluded in **Mulkey v. Reitman**, ante, p. 529 [50 Cal.Rptr. 881, 413 P.2d 825], that article I, section 26, is an unconstitutional infringement upon the equal protection clause of the Fourteenth Amendment, and for that reason defendant is not entitled to rely upon it as giving him a right to discriminate against plaintiff in the rental of defendant's property. It does not follow from such holding, however, that plaintiff stated a cause of action. To withstand defendant's demurrer he must allege facts which entitle him to relief as a matter of law. This he has failed to do."

Impact of the Ruling

A landlord evicted a Black tenant on the basis of race. The Supreme Court of California affirmed a ruling that the 14th Amendment does not require the state to take action to prohibit private discrimination in the rental of residential real property. Discrimination in public spaces was illegal during this time (see Unruh Act); however, racial discrimination in the private sector was not prohibited.

Grogan v. Meyer (1966) 64 Cal.2d 875

Summary of Facts and Issues

"Plaintiff appeals from a judgment for defendant entered upon the granting of defendant's motion to dismiss plaintiff's complaint in an action for damages pursuant to statutory provisions making it unlawful to discriminate on the basis of color, race or national origin in the rental of dwelling places." (Civ. Code, §§ 51, 52; Health Saf. Code, §§ 35710, 35720.)

Impact of the ruling

This case is about the refusal to allow Black people to occupy a dwelling space. The defendant had a policy of denying the right of Black people to occupy any property managed by him. Prior to this case, California passed Proposition 14, which prohibited the refusal to rent or lease dwelling spaces on the

basis of race. The court reversed a judgment by the San Francisco Municipal Court that affirmed the Defendant's right to discriminate, citing *Mulkey v. Reitman* and the Equal Protection Clause of the 14th Amendment.

Prendergast v. Snyder (1966) 64 Cal.2d 877

Summary of Facts and Issues

"We have held today that **article I, section 26**, upon which defendant relies for the declaration of his rights, is, in its entirety, an unconstitutional infringement of the **Fourteenth Amendment**. (*Mulkey v. Reitman*, ante, p. 529 [50 Cal.Rptr. 881, 413 P.2d 825].)"

Impact of the Ruling

The plaintiffs sought to enjoin the landlord for evicting them based on race (the tenant's husband was Black). The defendant appealed the ruling and lost. The California Supreme Court held that the defendant's actions were illegal. The court found that the **California Constitution article 1, section 26** could be construed to enforce the defendant's discrimination but that it could not be given that effect because it was not aligned with the **14th Amendment**.

Stearns v. Fair Employment Practice Com (1971) 6 Cal.3d 205

Summary of Facts and Issues

"When Ernest Cooper, a Negro, sought to rent an apartment from Val Stearns, Stearns required Cooper to complete a credit application and submit to a credit investigation before the apartment could be rented. Three hours after Stearns dealt with Cooper, a Caucasian sought the same apartment. Stearns solicited an immediate deposit but required no credit check, offering the Caucasian occupancy as soon as the apartment could be cleaned. On the basis of these facts, the Fair Employment Practice Commission (FEPC) found that Stearns discriminated against Cooper on the grounds of race. Stearns challenged the commission's findings by petition in the superior court for a writ of mandate. He charged that the commission lacked evidence on which to find discrimination, and that the commission produced a material variance between the accusation it issued against Stearns and the decision which it rendered against him. The superior court denied the writ and Stearns appeals."

Impact of the Ruling

The state Supreme Court affirmed a lower court's ruling that the landlord discriminated by requiring a credit check and refusing a rent deposit but not a white prospective tenant. The Legislature originally intended that the Fair Employment Practice Commission (FEPC) was to remedy discrimination in employment and that housing discrimination was to be handled under Unruh and Hawkins Acts. However, civil damages often amounted to less than \$1,000, and defendants would find ways to drive litigation costs above that amount. The Legislature responded by giving the FEPC authority to take administrative action against housing discrimination and to ensure plaintiffs were not burdened with procedural technicalities. Note: This is distinguished by *Brooks v. State of California Personnel Board*

(N.D. Cal., Aug. 26, 2009, No. C 09-2835 PJH). The case shows that the state was not prepared to deal with certain forms of discrimination against Black people, even though progress was being made. Discrimination and anti-Black racism existed in every aspect of life, and people found ways to get around attempts to end those tactics, which the state did not anticipate. As a result, Black people in California struggled to find protection against anti-Black behavior.

Cal. Gov. Code, § 12900

Summary of Facts and Issues

"This part may be known and referred to as the '**California Fair Employment and Housing Act.**'"
"California Fair Employment and Housing Act becomes the new title for Rumford.

The Fair Employment and Housing Act, which includes the California Fair Housing Law (often called the **Rumford Fair Housing Act**), is the primary state law banning discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, disability and familial status. **The Unruh Civil Rights Act of 1959** provides for the right to be free from discrimination in public accommodations. This Act has been interpreted by the courts to prohibit arbitrary discrimination by business establishments on any basis other than economic status such as level of income."

https://www.acgov.org/cda/hcd/documents/Fair_Housing_Info.pdf

Harris v. Capital Growth Investors XIV (1991) 52 Cal.3d 1142

Summary of Facts and Issues

"We consider in this case two issues involving interpretation of the **Unruh Civil Rights Act** (Civ. Code, §§ 51, 52; hereafter the Unruh Act or the Act; all statutory references are to the Civil Code unless otherwise indicated): (1) does the Act proscribe, as economic discrimination, a landlord's requirement that prospective tenants have gross monthly incomes of at least three times the rent to be charged (the minimum income policy) and (2) can a female plaintiff state a cause of action under the Act by alleging that the minimum income policy has an adverse or disparate impact on women? Our review of the language and history of the Act indicates that both questions must be answered in the negative."

Impact of the Ruling

Female tenants living month-to-month sued their landlord under the **Unruh Civil Rights Act** on the grounds of sex (gender) and economic discrimination. They challenged his practice of requiring tenants to have an income three times the apartment's monthly rent. The California Supreme Court held that the minimum income requirement did not violate the Act because it was imposed evenly across all prospective tenants. This case does not take into consideration the pay gap/inequities women historically have faced, nor does it account for similar inequities that apply to people of color. Therefore, the case created an additional loophole in housing discrimination - people who are at the bottom of the pay scale end up relegated to certain neighborhoods and communities, often with limited public resources (schools, hospitals, food, etc).

Walnut Creek Manor v. Fair Employment & Housing Com. (1991) 54 Cal.3d 245**Summary of Facts and Issues**

"We conclude that while section 12987 authorizes the commission to award compensatory damages, an administrative award of compensatory damages for emotional distress violates the judicial powers clause of the California Constitution (art. VI, § 1; see *McHugh v. Santa Monica Rent Control Bd.* (1989) 49 Cal.3d 348 [261 Cal.Rptr. 318, 777 P.2d 91] [hereafter *McHugh*]). We further conclude, however, that the section is severable in its applications. We thus agree with the Court of Appeal that the emotional distress compensatory damages part of the award in this case must be stricken. Finally, we determine that pursuant to section 12987, the act authorizes only one punitive damages award against a respondent for a course of discriminatory conduct against the same individual on the same unlawful basis."

Impact of the Ruling

This case is about determining compensation for a person discriminated against for housing. The plaintiff was African American and was denied an apartment in Santa Monica. After suing, the defendant was awarded compensatory damages for both discrimination and emotional distress. The defendant appealed the ruling, and the court determined that a plaintiff cannot receive awards for both discrimination and emotional distress. The California Supreme Court held that the Fair Employment and Housing Act (FEHA) authorized only one punitive damages award for this type of discriminatory conduct, stating that substantial, multiple, and/or cumulative punitive awards for a single discriminatory act was considered unreasonable.

II. Employment**Matter of Application of Miller (1912) 162 Cal. 687****Summary of Facts and Issues**

"The petitioner applies for release from custody on a charge of violating the provisions of the Act of March 22, 1911, forbidding the employment of women in certain establishments for more than eight hours in one day, or more than forty-eight hours in one week. (Stats. 1911, p. 437.) The specific charge is that on June 12, 1911, he employed and thereupon required Emma Hunt, a female, to work during that day for nine hours in the Glenwood Hotel, as an employee therein. His contention is that the act is unconstitutional and void."

The Court decided that the Act of March 22, 1911 was constitutional because the California's police power outweighed the Constitution's mandate that discrimination based solely on distinctions of sex be prohibited. In support of that conclusion, the Court said that because women are ""less robust"" and ""have the burden of childbearing," the state's interest in protecting the health of women sufficiently and ""rationally"" reached the promotion or preservation of the "public health" or "general welfare."

Accordingly, the Court ruled that the Act of March 22, 1911 was constitutional, uniform, and did not embrace two different subjects."

Impact of the Ruling

Continually enforcing the Act of March 22, 1911 allowed the legislature to limit employment opportunities based on sex as long as the legislature could successfully argue that the limit has a rational basis for preserving public health. The hotel proprietor was arrested and charged with forcing female employees to work more than 8 hours daily. California's Act of March 22, 1911, forbade women's employment in hotels for more than 8 hours a day. The proprietor argued that the Act of March 22, 1911, was unconstitutional, that the act is not uniform, and that it embraces two distinct subjects, in contravention to the Constitution. The case itself does not mention race but it does illuminate racial implications. In addition to gender, many Black women were employed in hotels as chambermaids and in boarding houses. Undoubtedly, they too worked long hours, beyond what was allowed, and for less pay than others.

James v. Marinship Corp. (1944) 25 Cal.2d 721

Summary of Facts and Issues

"This is an appeal from an order of the Superior Court in Marin County awarding a preliminary injunction which, among other things, restrained defendants from discharging or causing the discharge of plaintiff and other Negro employees because they are not members of a labor union with which their employer has a closed shop agreement, but which will not grant Negroes full membership privileges. The basic question presented is whether a closed shop may be enforced by a labor union together with an arbitrarily closed or partially closed union membership.

Plaintiff, Joseph James, is a citizen of the United States, a resident of California, a member of the Negro race, and an employee of defendant Marinship Corporation. He brought this action on his own behalf and on behalf of approximately 1,000 other Negro workers similarly situated. The Negroes are skilled craftsmen in the shipbuilding trade, most of whom have been employed by Marinship for periods in excess of one year."

Impact of the Ruling

"This case was brought by an African American man, Joseph James, on behalf of Black shipbuilders who worked for the Defendant, the Marinship Corp. They were fired for not being members of the defendant's labor union with which the company had a closed-shop agreement. That union would not grant Black people membership. Black workers were only allowed to join a union with which their employer did NOT have an agreement, thereby making them ineligible for employment under the closed-shop agreement.

Plaintiffs argued that the agreement between the Defendants was part of a scheme to exclude Black labor from the workforce.

The court held that the union's closed shop agreement with a closed (or partially closed) membership was not legal and not a proper labor objective. Because the union achieved a closed shop, it established a monopoly on local labor, but it could also maintain a closed membership.

The court referred to SCOTUS decisions citing the **Railway Labor Act** (1926) and the **National Labor Relations Act** (1935), which required local unions to admit Black workers, without hostility and in good faith. The Marinship Corp. argued that the exclusion of the Black workers was segregation, not denial. But the Court found that the effect of the segregation excluded Black workers from available employment using the closed shop agreement.

Board of Education v. Mass (1956) 47 Cal.2d 494

Summary of Facts and Issues

"A teacher may properly be required to disclose information relative to fitness and loyalty as a reasonable condition for obtaining or retaining public employment, even though the disclosure under some circumstances may amount to self-incrimination."

Impact of the Ruling

This case does not mention discrimination based on race, gender, ethnicity, nationality, or religion, only based on political beliefs, specifically, whether a person was willing to answer if they were a member of the Communist Party. But it did establish that discrimination for certain reasons was acceptable. The Communist Party was one of the few organizations that not only accepted Black members, but consistently advocated for African American political, social, and economic issues. Membership in, or affiliation with the Communist Party meant that African Americans could be discriminated against in other ways without race being a direct factor.

Alcorn v. Anbro Engineering, Inc. (1970) 2 Cal.3d 493, 496-97

Summary of Facts and Issues

"Plaintiff employee brought an action against defendants, an employer and others, based upon intentional infliction of emotional distress and a violation of the **Unruh Civil Rights Act, Cal. Code Civ. Proc. §§ 51- 52.**" And, "Immediately thereafter, Palmer allegedly shouted at plaintiff in a rude, violent and insolent manner as follows: "You goddam `niggers' are not going to tell me about the rules. I don't want any `niggers' working for me. I am getting rid of all the `niggers'; go pick up and deliver that 8-ton roller to the other job site and get your pay check; you're fired.'" Plaintiff thereupon delivered the roller and reported the incident to defendant Thomas Anderson, Jr., a Caucasian and Anbro's secretary, who allegedly ratified and confirmed Palmer's acts, including plaintiff's discharge, on behalf of Anbro and the other defendants.

As a result of the foregoing incident, plaintiff allegedly suffered humiliation, mental anguish and emotional and physical distress. Plaintiff was sick and ill for several weeks thereafter, was unable to work, and sustained shock, nausea and insomnia"

Impact of the Ruling

The plaintiff's supervisor used racial epithets, which caused emotional distress. The state Supreme Court ruled in favor of the defendant, finding that the **Fair Employment Practice Act (FEPA, 1959)** excluded discrimination in employment. The Court interpreted the Act to protect discrimination prior to employment, but not during employment. Equal accommodations statutes at the time did not include employment discrimination. This case affirmed that employers could treat employees however they pleased, so if they wanted to treat African Americans poorly, they could. As a result, many Black workers suffered from mistreatment that caused additional emotional and physical stress.

Price v. Civil Service Com. (1980) 26 Cal.3d 257

Summary of Facts and Issues

"In this case we must determine whether a governmental entity may voluntarily adopt a race-conscious, affirmative action hiring program of limited duration to alleviate an underrepresentation of minority employees which the entity finds is attributable to its own past discriminatory employment practices." And, "The affirmative action plan at issue in this case is but another small but significant step in bringing about the full participation of minority individuals in our society. Although the essence of a democratic society lies in its emphasis upon the rights of the individual, the implementation of those rights has been a long and arduous process. The noble principles of the Constitution were not applied to blacks for nearly a century of our country's life. Even with the adoption of the **Thirteenth, Fourteenth and Fifteenth Amendments**, overt racial discrimination against blacks persisted and was condoned under the pernicious "separate but equal" doctrine. Only in the last quarter century, beginning with **Brown v. Board of Education (1954) 347 U.S. 483 [98 L.Ed. 873, 74 S.Ct. 686, 38 A.L.R.2d 1180]** and furthered by federal, state and local civil rights legislation, have we undertaken a serious and concerted effort to eliminate the pervasive discrimination long endured by minorities in our society. But the endeavors of the 1950's, 1960's and 1970's have revealed that in light of the history and continuing realities of racial discrimination, the negation of discrimination is frequently not enough. We have found that affirmative steps are at times necessary to overcome the legacy of the past degradation of minorities and to bring minorities into full membership in American society. One such instance of that essential affirmative action is the correction of an employer's past discriminatory employment practice by a race-conscious hiring program such as that of the instant case."

Impact of the Ruling

The District Attorney brought suit against an order from (Sacramento) county that he give preferential hiring to minority applicants. Court found that program was legal, citing **Steelworkers v. Weber, 443 U.S. 193 (1979)** which states that "all race-conscious affirmative action programs" are not unconstitutional as the Civil Rights Act of 1964 was intended to integrate races. Preferential race-based

hiring allowed if the underrepresentation was found to be the result of past discrimination. This practice was overturned by **Proposition 209** (1996).

Commodore Home Systems, Inc. v. Superior Court (1982) 32 Cal.3d 211, 212-13

Summary of Facts and Issues

"Petitioner Commodore Home Systems, Inc. (Commodore) seeks mandate after the San Bernardino Superior Court denied its motion to strike portions of a complaint alleging job discrimination. The question is whether punitive damages are available in a suit for job discrimination pursuant to the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.)... The California Fair Employment Practices Act (FEPA) was enacted in 1959 (former Lab. Code, § 1410 et seq.; see Stats. 1959, ch. 121, § 1, p. 2000 et seq.). In 1980 it was recodified as part of the FEHA. (Stats. 1980, ch. 992, § 4, p. 3140 et seq.) The law establishes that freedom from job discrimination on specified grounds, including race, is a civil right. (§ 12921.) It declares that such discrimination is against public policy (§ 12920) and an unlawful employment practice (§ 12940)."

Impact of the Ruling

Two Black Plaintiffs filed a job discrimination suit against their employers after being fired. Plaintiffs alleged that the company employed no Black people in higher positions and fired any others who were on track to be promoted. The case was about whether the two plaintiffs were allowed to recover damages from the defendants for that discrimination. The court ruled in their favor, stating, "in a civil action under the FEHA, all relief generally available in non-contractual actions, including punitive damages, may be obtained. We affirm the order denying Commodore's motion to strike the prayers for punitive damages from real parties' complaint."

Dyna-Med, Inc. v. Fair Employment Housing Com (1987) 43 Cal.3d 1379, 1382

Summary of Facts and Issues

"In **Commodore Home Systems, Inc. v. Superior Court** (1982) 32 Cal.3d 211 [185 Cal.Rptr. 270, 649 P.2d 912] (hereafter Commodore Home), we held that a court may award punitive damages in a civil suit for job discrimination pursuant to the California **Fair Employment and Housing Act** (FEHA or Act) (Gov. Code, § 12900 et seq.). The issue in the present case is whether the FEHA authorizes the Fair Employment and Housing Commission (Commission or the commission) to impose punitive damages, a question left unresolved in Commodore Home. (Id. at p. 220.) As will appear, we conclude that the FEHA does not authorize the commission to award punitive damages." And, "Punitive damages, by contrast, are neither equitable nor corrective; punitive damages serve but one purpose — to punish and through punishment, to deter. (5) "Punitive damages by definition are not intended to compensate the injured party, but rather to punish the tortfeasor whose wrongful action was intentional or malicious, and to deter him and others from similar extreme conduct."

Impact of the Ruling

The Fair Employment and Housing Commission imposed punitive damages against an employer for retaliating against an employee who filed an employment discrimination complaint under the **Fair Employment Practices Act**. The California Supreme Court held that the California FEHA did not authorize the Fair Employment and Housing Commission to impose punitive damages against employers who were found to have retaliated against employees for filing employment discrimination complaints. Black people, who had historically, and others who had been discriminated against could seek damages, even if the employer had discriminated. Thus, this decision gave people in powerful positions justification to practice discrimination, as they would receive little to no consequences. Moreover, it left African Americans and others helpless to the discriminatory treatment.

Hi-Voltage Wire Works, Inc. v. City of San Jose (2000) 24 Cal.4th 537, 569

Summary of Facts and Issues

"In the history of this Court and this country, few questions have been more divisive than those arising from governmental action taken on the basis of race." And, "The disparity study is not part of the record in this case. Without it, the court has no basis for measuring the fit between the program and the goal of eliminating a disparity in the amount of contract dollars awarded MBE's in comparison to non-MBE's [minority-owned businesses]."

Impact of the Ruling

San Jose had a city program that required contractors bidding on city projects to have a certain percentage of minority and women subcontractors or to document efforts to include minority and women subcontractors in their bids. The California Supreme Court held that the program violated the California Constitution. The decision underscores the ways Black people throughout the state had no protection from discriminatory behavior from employers, in competing for jobs, and in other economic situations.

Coral Construction, Inc. v. City and County of San Francisco (2010) 50 Cal.4th 315

Summary of Facts and Issues

"**Article I, section 31 of the California Constitution** (section 31) forbids a city awarding public contracts to discriminate or grant preferential treatment based on race or gender. (See generally **Hi-Voltage Wire Works, Inc. v. City of San Jose (2000)** 24 Cal.4th 537 [101 Cal.Rptr.2d 653, 12 P.3d 1068] (Hi-Voltage).) Here, a city whose public contracting laws expressly violate section 31 challenges its validity under the so-called political structure doctrine, a judicial interpretation of the federal equal protection clause. (U.S. Const., **14th Amend.**; see generally **Washington v. Seattle School Dist. No. I** (1982) 458 U.S. 457 [73 L.Ed.2d 896, 102 S.Ct. 3187] (Seattle) and **Hunter v. Erickson** (1969) 393 U.S. 385 [21 L.Ed.2d 616, 89 S.Ct. 557] (Hunter).) We conclude section 31 does not violate the political structure doctrine."

San Francisco had an ordinance in place (since 1884) that preferentially awarded public contracts to minority-owned businesses (MBE's) and women-owned businesses (WBE's) justified by past and

continuing discrimination. After the 1984 ordinance was ruled to be unconstitutional, the city adopted a new ordinance in 1989 that retained bid discounts but eliminated set-asides. In 2001 Coral brought action against the city for this ordinance. In 2003, City adopted a slightly different ordinance and plaintiff Schram filed a separate action that was then enjoined.

Impact of the Ruling

This case dealt with Affirmative Action in several ways. 1) It established that preventing race and gender preferences in public contracts does not violate political structure doctrine; 2) that the environmental protection affirmative action regulation did not require an ordinance to establish race- and gender-based remedies; 3) that the transportation affirmative action regulation did not require an ordinance to establish race- and gender-based remedies.

Two contractors challenged a San Francisco ordinance that awarded contracts to women and *minority* owned businesses (WBEs and MBEs). This had been a practice for almost thirty years in which the city attempted to create a racial and gender balance of contracts awarded to MBEs and WBEs. San Francisco argued that the **California Constitution, article 1, section 31** violated the **Equal Protection Clause** of the **14th Amendment** to the US Constitution. This portion of the California Constitution comes from **Proposition 209**, and says, "The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting" (**CA Constitution art I § 31**). While San Francisco attempted to create a remedy for past discrimination, the State Supreme Court rejected that idea saying that even if race-based remedies were necessary, they were not indefinite and needed intense scrutiny. In doing so, the Court makes racial and gender balancing in city contracts subjective, so that it becomes up for interpretation, rather than relying on remedying past discrimination.

III. Education

Ward v. Flood (1874) 48 Cal. 36

Summary of Facts and Issues

Writ of Mandamus - allowing Mary Ward to attend the all-white school in the neighborhood in which she lived. The court denied the writ stating, "The Committee, .. Have come to the conclusion that the good of both classes of school will be best promoted by maintaining the separate schools for colored and for white children,.. We cannot say that their decision upon it is not founded on just grounds of reason and experience, .. and honest judgment.' We concur with these views, .. we think proper to add that.. the exclusion of colored children, cannot be supported,.. [57] except where separate schools are actually maintained for the education of colored children."

Impact of the Ruling

This early case was very similar to Brown v Board of Education in that it dealt with a student who lived in a white neighborhood but was prevented from attending the local common school. Anticipating a very

low Black population in the State, the court determined that it was in the student's best interest to allow her to enroll in the school. The court left the caveat that in areas where areas were maintained for "colored" children, students could attend segregated schools. As more Black families moved into the state, children were required to attend a segregated school

Serrano v. Priest (1971) 5 Cal.3d 584

Summary of Facts and Issues

"We are called upon to determine whether the California public school financing system, with its substantial dependence on local property taxes and resultant wide disparities in school revenue, violates the equal protection clause of the Fourteenth Amendment. We have determined that this funding scheme invidiously discriminates against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors. Recognizing as we must that the right to an education in our public schools is a fundamental interest which cannot be conditioned on wealth, we can discern no compelling state purpose necessitating the present method of financing. We have concluded, therefore, that such a system cannot withstand constitutional challenge and must fall before the equal protection clause."

Impact of the Ruling

The California Supreme Court reversed and remanded a Superior Court ruling and held that the public-school financing system, which included funding generated from property taxes, created disparities for poor students and violated the Equal Protection clause of the 14th Amendment. The majority of schools that were underfunded because of this practice were in Black and brown neighborhoods, leaving students with few resources to bolster their education. As a result, Black and brown student achievement was at a much slower pace than that of white students. The Court held that any judgment invalidating an existing public school financing system should remain in place until a constitutional one replaces it.

Santa Barbara Sch. Dist. v. Superior Court (1975) 13 Cal.3d 315

Summary of Facts and Issues

"In this class action brought against two school districts and their common governing board of education, we are called upon to determine the validity of a desegregation plan for elementary schools. Our task also requires us to examine and pass upon the constitutionality of a recent initiative measure enacting certain anti-busing legislation and repealing existing statutes dealing with the prevention and elimination of racial and ethnic imbalance in pupil enrollment. Additionally we must examine the validity of the pertinent statute permitting the board of education in question to be the common governing board of the high school district and the elementary school district here involved."

Impact of the Ruling

This was a class action case brought by taxpayers against two school districts and their joint governing school board over the validity of an elementary school desegregation plan. The Santa Barbara School

District created an aggressive desegregation plan of their schools that involved busing (amongst other things), and the community filed suit because they did not want their children required to attend schools with populations designed or defined by race. The Court ruled that certain parts of the desegregation plans were unconstitutional, but others were fine.

Ed. Code, § 200

Summary of Facts and Issues

"It is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration status, equal rights, and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor."

Ed. Code, § 201

Summary of Facts and Issues

"(a) All pupils have the right to participate fully in the educational process, free from discrimination and harassment.(b) California's public schools have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity."

Crawford v. Board of Education (1976) 17 Cal.3d 280

Summary of Facts and Issues

"The defendant school board appeals from the trial court judgment, contending primarily that the segregated condition of its district's schools should properly be characterized as "de facto" rather than "de jure" and that it owes no constitutional duty to alleviate such de facto school segregation. The findings in this case adequately support the trial court's conclusion that the segregation in the defendant school district is de jure in nature. We shall explain, however, that we do not rest our decision on this characterization because we continue to adhere to our conclusion in Jackson that school boards in California bear a constitutional obligation to take reasonably feasible steps to alleviate school segregation "regardless of its cause." (59 Cal.2d at p. 881.) Consequently, the trial court's finding that the schools in the Los Angeles Unified School District are segregated, together with its conclusion that the defendant school board has failed to undertake reasonably feasible steps to desegregate its schools, are sufficient to sustain the trial court's order compelling the school board to prepare and implement a plan which attempts to alleviate the segregation and the traditional harmful effects of segregation in its district's schools."

Impact of the Ruling

After schools were ordered to desegregate, a class action suit was filed against the school district for segregation between 1966-1968. Although segregation was no longer legal, court findings showed that

school districts had become increasingly more segregated regardless of this fact. The California Supreme Court said that school boards in California have a constitutional obligation to take reasonably feasible steps to alleviate school segregation. This case exemplifies how schools in California remained segregated, regardless of whether the segregation was de facto (by fact/circumstance) or de jure (by law). This did not matter to the Court who expressed a willingness to remedy the problem. The Court said:

The harms traditionally inflicted on minority children by school segregation do not, of course, relate solely to objective measures of academic achievement. Although from the existing evidence it appears that, by and large, the maintenance of segregated education probably does disproportionately impede the achievement of *minority* students vis-a-vis majority students, the detriments traditionally identified with segregated education rest in significant part outside of the academic sphere. In both *Brown* and in numerous pre- *Brown* decisions, the United States Supreme Court emphasized the less measurable psychological and sociological burdens traditionally imposed on minority children when the public schools afford them education only in an isolated setting, apart from students who make up a majority of the nation's population.

**National Ass'n for Advancement of Colored People v. San Bernardino City Unified School Dist. (1976)
17 Cal.3d 311**

Summary of Facts and Issues

"The United States circuit court cannot take jurisdiction of a trial for murder merely because a witness is a negro, and incompetent by the laws of the state to testify, under the provisions of the **Civil Rights Act** of April 9, 1866, 14 Stat. 27, which gives jurisdiction to the circuit court of all causes, civil and criminal, affecting persons who are denied or cannot enforce, in the courts of the state or locality where they may be, any of the rights given by the act, among which is the right to give evidence. A criminal prosecution is not to be considered as "affecting" mere witnesses in the case.

For the reasons discussed below, we affirm the trial court's determination that segregation exists within the San Bernardino school district and that the district bears a constitutional obligation to take reasonable and feasible steps to alleviate such segregation. As we have explained in **Crawford v. Board of Education**, ante, page 280 [130 Cal.Rptr. 724, 551 P.2d 28], decided this day, school districts in this state bear a constitutional obligation to alleviate segregation in their districts, regardless of the cause of such segregation. The trial court properly refused to relieve the defendant school district of this obligation on the basis of its claim that the segregation in the district was "de facto" rather than "de jure" in nature."

Impact of the Ruling

This case deals with meaningful plans to desegregate schools. Footnote 19 of this case reads:

To avoid possible confusion, we wish to emphasize that a desegregation plan is not invalid simply because it relies upon the voluntary actions of parents and students. As the United States Supreme Court observed in *Green v. County School Board* (1968) [391 U.S. 430, 440](#) [[20 L.Ed.2d 716, 725, 88](#)

[S.Ct. 1689](#)]: "Although the general experience under 'freedom of choice' [or similar voluntary plans] to date has been such as to indicate [their] ineffectiveness as tool[s] of desegregation, there may well be instances in which [a voluntary plan] can serve as an effective device. Where it offers real promise of aiding a desegregation program . . . , there might be no objection to allowing such a device to prove itself in operation." (Fn. omitted.) (See, e.g., *Hart v. Community School Bd. of Ed., N Y Sch. Dist. # 21* (1975) [512 F.2d 37, 53-55](#).) The ultimate test remains whether the desegregation plan produces meaningful progress toward the elimination of segregated schools in the district.

National Ass'n for Advancement of Colored People v. San Bernardino City Unified School Dist. (1976) 17 Cal.3d 311, 328 fn. 19

Bakke v. Regents of University of California (1976) 18 Cal.3d 34

Summary of Facts and Issues

"The Medical School of the University of California at Davis had a program where some spots for their entering class were reserved for racial minorities. Plaintiff sued the university, arguing that the program was unconstitutional as it admitted students less qualified than him on paper purely due to race. The Supreme Court ruled for Plaintiff, finding that the program violated the **Equal Protection Clause** of the **Fourteenth Amendment**, affirming the state Supreme Court decision. "In this case we confront a sensitive and complex issue: whether a special admission program which benefits disadvantaged minority students who apply for admission to the medical school of the University of California at Davis (hereinafter University) offends the constitutional rights of better qualified applicants denied admission because they are not identified with a minority. We conclude that the program, as administered by the University, violates the constitutional rights of nonminority applicants because it affords preference on the basis of race to persons who, by the University's own standards, are not as qualified for the study of medicine as nonminority applicants denied admission."

Impact of the Ruling

Affirmative Action programs may not be utilized purely based on race. Unless the University of California could prove past discrimination, it could not create race-based remedies. Since the UC could not prove they discriminated, the Court ruled their program for diversifying the UC Davis Medical School was unconstitutional. Nevertheless, this ruling resulted in higher education institutions and several business sector companies creating and maintaining quotas for admissions and hiring. See, **University of California Regents v. Bakke** (1978) 438 U.S. 265, and Affirmative Action was established. While this should be seen as a positive, white women were overwhelmingly the recipients of these quotas, leaving African Americans and other people of color out. UC Davis brought the case to the United States Supreme Court.

DeRonde v. Regents of University of California (1981) 28 Cal.3d 875

Summary of Facts and Issues

A white male applicant sued a public university after he was denied entry. The school took "ethnic minority status" into account when admitting students. The Superior Court ruled in favor of the university because the plaintiff would not have been admitted. The State Supreme Court's ruling stated,

"Were the admissions procedures permitting consideration of "ethnic minority status" as a factor in the 1975 selection of the first year class at King Hall, the University of California at Davis School of Law, violative of the equal protection guarantees afforded nonminorities under the federal or state Constitutions? We conclude that they were not."

Impact of the Ruling

The state Supreme Court also sided with the defendant and ruled it was constitutional if the consideration was not a cover for some quota system. Since the program in question admitted a fluxing number of minorities each year, it was clear that there was no quota system at play. The opinion cited Price in reasoning that the state Constitution does not vary from the federal charter. The same principles applied to public employment in Price also apply to public universities. Petition for writ of certiorari to the Supreme Court denied. The majority opinion heavily dissected the United States Supreme Court opinions on affirmative action programs in **Bakke**. Mosk delivered a dissenting opinion, stating they "revive[d] the indefensible practices of pre-Brown days." He cites Civil Rights Movement leaders who advocated for a "colorblind America" and implies that this decision sets back their vision. He also cites the California decision striking down anti-miscegenation laws (*Perez v. Sharp*), in which the opinion stated marriage was a right of individuals, not of a racial group. Mosk believed this same line of reasoning could be applied to public education.

McKinny v. Board of Trustees (1982) 31 Cal.3d 79

Summary of Facts and Issues

"[W]e adhere to this court's decision in *Jackson*. In California, all public school districts bear an obligation under the state Constitution to undertake reasonably feasible steps to alleviate school segregation, regardless of the cause of such segregation." (Id. at pp. 301-302; see also **National Assn. for Advancement of Colored People v. San Bernardino City Unified Sch. Dist.** (1976) 17 Cal.3d 311 [130 Cal.Rptr. 744, 551 P.2d 48].)

Impact of the Ruling

A group of taxpayers filed suit against a school district, claiming that the district's desegregation plan did not comply with standards. They sought an injunction to stop the implementation of the plan. Justice Mosk issued the majority opinion holding that 1) There was adequate public participation in the development of the desegregation plans by regulations, 2) Sending a notice of desegregation plan to all parents of students complied with regulations, and 3) The notice was also specific enough by listing its recommendations, explaining the five criteria utilized by the board to evaluate what changes should be implemented, and informed the basis of the board's decision enough that parents were able to scrutinize it. Therefore, the court affirmed the lower court decision and sided with the defendants.

Fullerton Joint Union High School Dist. v. State Bd. of Ed. (1982) 32 Cal.3d 779

Summary of Facts and Issues

"Fullerton High School District filed suit to prevent an election for the creation of a new school district out of an already existing one. The Supreme Court of California held that 1) the board's criteria for creating a new district, one of which was that the new district would not promote segregation or desegregation, had been met and was not "arbitrary, capricious, or lacking in evidentiary support," and 2) The state board's decision to limit the vote to residents of proposed district denied Equal Protection to residents of the existing district (a large part of this reasoning had to do with geographical discrimination as many of the neighboring cities of Yorba Linda and Fullerton's schools were intertwined). **Section 4200 of the Education Code** requires that a school organization plan must substantially meet the following conditions: (a) the new districts will have adequate enrollment; (b) the new districts will be adequate in terms of financial ability; (c) the new districts will each have a substantial community identity; (d) the proposal will result in an equitable division of property and facilities of the original district; and (e) the formation of the new district will not promote racial or ethnic discrimination or segregation."

"Statistics presented to the State Board and the trial court showed that in the 1976-1977 school year the Fullerton HSD had a white enrollment of 84.6 percent, and that the proposed Yorba Linda unified district would have a white enrollment of 91.6 percent. Fullerton HSD presented testimony predicting that minority enrollment in most of the Fullerton HSD would steadily increase, but that the racial and ethnic composition of Yorba Linda would remain relatively stable. Additional evidence presented to this court verified this prediction; as of November 1980 the white percentage in the Fullerton HSD as a whole has declined to 80 percent, but that of Yorba Linda only to 90.9 percent. If Yorba Linda seceded from the Fullerton HSD, the remaining portion of the district would have a white percentage of 66 percent."

Impact of the Ruling

The criteria for determining whether a proposed school district promoted segregation or discrimination was that it could not be "arbitrary, capricious, or lacking in evidentiary support." This case shows the impact of de facto segregation. While there may not have always been a law that mandated segregation, it could still happen. In this case, a decision to split a school district to form two distinct districts had tremendous racial implications, whether they meant to or not. Should the Yorba Linda District break away from Fullerton, one would remain almost completely white, while the other would increase in the percentage of "minority" students. This kind of situation is also the product of segregation in housing that created separate neighborhoods that determined where one attended school, often one that was also segregated.

Ed. Code, § 220

Summary of Facts and Issues

"No person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including

immigration status, in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid”

Ed. Code, § 212.1

Summary of Facts and Issues

“(a) "Race or ethnicity" includes ancestry, color, ethnic group identification, and ethnic background. (b) "Race" is inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles. (c) "Protective hairstyles" includes, but is not limited to, such hairstyles as braids, locs, and twists.”

Impact of the Ruling

Race or ethnicity, race, and protective hairstyles are defined: “(a) "Race or ethnicity" includes ancestry, color, ethnic group identification, and ethnic background. (b) "Race" is inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles. (c) "Protective hairstyles" includes, but is not limited to, such hairstyles as braids, locs, and twists.” Amendments were made to this code in 2008, 2020, and 2021 that shaped it into what it is today.

IV. Political Participation

CA Const. art 2 § 1

Summary of Facts and Issues

“Every white male citizen of the United States, and every white male citizen of Mexico, who shall have elected to become a citizen of the United State, under the treaty of peace exchanged and ratified at Queretaro, on the 30th day of May, 1848 of the age of 21 years, who shall have been a resident of the State six months next preceding the election, and the county or district in which he claims his vote 30 days, shall be entitled to vote at all elections which are now or hereafter may be authorized by ‘law.’ Provided, that nothing herein contained shall be construed to prevent the Legislature, by a two-thirds concurrent vote, from admitting to the right to suffrage, Indians or the descendants of Indians, in such special cases as such a proportion of the legislative body may deem just and proper”.

Impact of the Law

This law defined white males as citizens, and gives citizenship to white male citizens of Mexico, thereby setting up a racialized order of who will have rights, and allows a pathway for Native Americans to become citizens. In practice, this law made it possible for white men who owned property to attain citizenship rights in California. Once a person was considered a citizen, he had rights that shaped the racial landscape in California that included voting, education, economic advantage and legal privileges. Need to cross-reference here/map to other areas of the chart? Once citizenship is defined as white and male, everything follows. They are listed below.

CA Const. art 2 § 5**Summary of Facts and Issues**

“No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.

Impact of the Law

This law defined who can serve as electors by limiting them to white and male as the only people eligible to vote in elections. This rule gave protections to white men of means who would not be considered idiots, insane, or be convicted of infamous crimes, so that they could also preserve the electorate for white men to then define all of the rules for the community to abide by. Since people of color could not testify against white men, they were also unable to secure punishments for harm done to them by white people.

CA Const. art 12 § 5**Summary of Facts and Issues**

“Every Citizen of California, declared a legal voter by this Constitution, and every citizen of the United States, as resident of this State on the day of election, shall be entitled to vote at the first general election under this Constitution, and on the question of the adoption thereof.”

Impact of the Law

This law defined who can vote in elections, which was white and male, as they were the only group, initially, who had these rights.

Of the Government of the City, and the Elections and Duties of Officers, CA Const. Art.2, 1850**Summary of Facts and Issues**

"No person shall be eligible to any of said offices, nor to any other office which may be established by ordinance, nor shall any person be entitled to vote for the same, who shall not be a qualified elector according to the Constitution and laws of the State, and who shall not have resided in the city and in the ward or district for which he shall be elected or offer to vote, for thirty days next preceding election." - Mayor, Recorder, Board Alderman/Assistant Board Alderman, Treasurer, Comptroller, Street Commissioner, Tax Collector, City Marshall, City Attorney = elected positions. African Americans did not qualify for this because they were prohibited from voting, and other citizenship rights.

Impact of the Law

The state restricted who qualified to vote for officers and hold office to white men, again underscoring the power and privilege white men had.

CA CONST 1879 Art 2 § 1**Summary of Facts and Issues**

“Every native male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof,

who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, no native of China, no idiot, insane person, or person convicted of any infamous crime, and no person hereafter convicted of the embezzlement or misappropriation of public money, shall ever exercise the privileges of an elector in this State.”

Impact of the Law

This law expanded voting rights from the 1850 Constitution - The right to vote was reserved for male citizens, only white males were defined as citizens, excluding Black men, women, and other people of color from voting.

CA Const 1879 Art 22 § 7

Summary of Facts and Issues

Every citizen of the United States, entitled by law to vote for members of the Assembly in this State, shall be entitled to vote for the adoption or rejection of this Constitution.

Impact of the Law

This law details who can vote - as long as you are a citizen of the US, and you meet the standard to vote for State Assembly members according to California law, you then could vote to adopt or reject the new state constitution. African Americans were given voting rights under federal law in 1870 (see **15th Amendment**).

Castro v. State of California (1970) 2 Cal.3d 223

Summary of Facts and Issues

The state Supreme Court ruled that California's constitutional provision for having the right to vote be contingent on the ability to read English was in violation of the **14th Amendment**.

Impact of the Law

While this ruling pertained to Spanish speakers, the Court cited two courts in the south that found this to be unconstitutional in the same ways as literacy tests for Black people in the South.

Calderon v. City of Los Angeles (1971) 4 Cal.3d 251

Summary of Facts and Issues

The California Supreme Court held that district apportionment via a voter registration basis (i.e. one voter, one vote) as opposed to a population basis (i.e. one person, one vote) denied Equal Protection where apportionment on such a basis resulted in the largest district having approximately 70% more people than the smallest.

Impact of the Ruling

Apportionment is used for drawing districts. Los Angeles used a method that counted registered voters rather than every individual in an area for its districts. The registered voter basis approach resulted in severe underrepresentation for districts largely populated by racial and ethnic groups, since these groups were less likely to be registered as voters and therefore, less likely to have proper and adequate political representation.

AB-182 California Voting Rights Act of 2001

Summary of Facts and Issues

The purpose of the act is to, "address ongoing vote dilution and discrimination in voting as matters of statewide concern, in order to enforce the fundamental rights guaranteed to California voters under Section 7 of Article I and Section 2 of Article II of the California Constitution."

Impact of the Law

The California Voting Rights Act (CVRA) prohibits the use of an at-large election in a political subdivision if it would impair the ability of a protected class, as defined, to elect candidates of its choice or otherwise influence the outcome of an election. The CVRA provides that a voter who is a member of a protected class may bring an action in superior court to enforce the provisions of the CVRA, and, if the voter prevails in the case, he or she may be awarded reasonable litigation costs and attorney's fees. The CVRA requires a court to implement appropriate remedies, including the imposition of district-based elections, that are tailored to remedy a violation of the act. This bill would prohibit the use of a district-based election in a political subdivision if it would impair the ability of a protected class, as defined, to elect candidates of its choice. The bill would require a court to implement specified remedies upon a finding that a district-based election was imposed or applied in a manner that impaired the ability of a protected class to elect candidates of its choice.

V. (Unjust) Legal System

CA CONST 1879 Art 1 § 18

Summary of Facts and Issues

Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

Impact of the Law

No slavery except for punishment of a crime - This law, very much like the 13th Amendment to the US Constitution, created a loophole in the law that allowed for slave labor to exist through the prison system.

CA Const 1879 Art 15 § 1

Summary of facts and Issues

The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

Impact of the Law

This law extended the state's right of eminent domain to the water frontages.

An Act Regulating Marriages, Ch 140, §3, April 22, 1850

Summary of Facts and Issues

"All marriages of white persons with negroes or mulattoes are declared illegal and void."

Impact of the Law

This law prohibited Black and white people from marrying. Not only was this meant to prevent the two groups from procreating together, it was a way white men controlled white women. Miscegenation laws were used for several reasons: 1. To protect and maintain the "purity" of white blood; 2. Keep white women away from Black men; 3. Prevent a mixed race of people from being; 3. To focus on maintaining rights for white people.

Marine Hospital of CA, ch 65 § 13, 1850

Summary of Facts and Issues

Each master, each owner, or consignee, paying "Hospital money" shall be entitled to demand and recover from each person for whom they shall have paid, the sum on his account.

Impact of the Ruling

Master's recover payments for hospital visits. This law created a way for slave "masters" to be reimbursed for expenses paid for slaves' care.

An Act for the better regulation of the Mines, and the government of Foreign Miners, ch 97 § 1, April 13, 1850

Summary of Facts and Issues

No person who is not a native or natural born citizen of the United States, or who may not have become a citizen under the Treaty of Guadalupe Hidalgo (all native California Indians excepted), shall be permitted to mine in any part of this California, without having first obtained a license so to do according to the provisions of this Act.

Impact of the Law

This law further defines citizenship rights. Certain individuals cannot mine without a license - Black people were not considered citizens at this time, therefore, they could not mine.

An Act for the better regulation of the Mines, and the government of Foreign Miners, ch 97 § 6, April 13, 1850

Summary of Facts and Issues

“Any foreigner who may obtain a license in conformity with the provisions of this Act, shall be allowed to work in the mines anywhere in this California, under the same regulations as citizens of the United States”

Impact of the Law

This law created exceptions for people to mine by allowing a “licensed foreigner” to work in the mines, which meant that white males (non-citizens) could mine as a means of employment, but Black males could not.

An Act concerning Crimes and Punishments, Ch 99, Third Division, Who may be a witness in criminal cases, April 16, 1850 § 14

Summary of Issues and Facts

"No black or mulatto person, or Indian, shall be permitted to give evidence in favor of, or against, any white person. Every person who shall have one eighth part or more of Negro blood shall be deemed a mulatto, and every person who shall have one half of Indian blood shall be deemed an Indian."

Impact of the Law

This law prohibited Black people from serving as witnesses in criminal trials, which gave white people protection from certain witness testimony, or from being accused and convicted for committing crimes against Black people and other people of color.

Act for regulating proceedings in the Court practice of the Courts of the State of California, § 394, Ch. 3, April 15, 1851

Summary of Facts and Issues

“...persons having one-half or more of negro blood, shall not be witnesses in an action or proceeding, to which a white person is a party.”

Impact of the Law

This law gave protections to white people from being accused and convicted of crimes where people of color were involved.

CA Fugitive Slave Law, 1852 (Book 33) Citation Needed*

Summary of Facts and Issues

“When a person held to labor in any State or Territory of the United States under the laws thereof, shall escape into this state, the person to whom such labor or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, or shall have the right to obtain a warrant of arrest for such fugitive...”

Impact of the Law

This law made it legal to arrest and remove runaway slaves in California who were brought by their owners. California respected other states’ rights to own slaves, although it was not a slave state, making it legal for slavery to exist as an institution throughout the state

In re Perkins (1852) 2 Cal. 424**Summary of Facts and Issues**

"This case was brought before Judge Wells, of the Supreme Court, by the petition and affidavit of the prisoners, Robert and Carter Perkins and Sandy Jones, July 1st, 1852, which sets forth, that about the 1st of June, 1852, they were seized without process of law, and taken before B. D. Fry, a Justice of the Peace of Sacramento, upon a pretended claim of one C. S. Perkins, of the State of Mississippi, for a certificate to remove them from the State of California to Mississippi, under the act of California respecting fugitives from labor, and slaves brought into this State prior to her admission into the Union, passed April 15th, 1852."

"The judgment of the Court is, that the writ be dismissed, and that the slaves, Robert Perkins, Carter Perkins, and Sandy Jones be remanded to jail into the custody of the Sheriff of the county of San Francisco, and by the said Sheriff delivered to the master or his agent, without delay or cost."

Impact of the Ruling

This case involved slaves who were brought to CA and tried winning their freedom through the courts - court ruled that the rule established in **Prigg v. the Commonwealth of Pennsylvania (1842) 41 U.S. 539** applied. Congress established the **Fugitive Slave Act (1850)**, which had more weight than the states' laws. California passed a law respecting the rights of owners of fugitive slaves in 1852. As a result, this case determined that slaves must be returned to their owners, even if they were in a free state.

People v. Hall (1854) 4 Cal. 399**Summary of Facts and Issues**

This case was about whether Black, or other people of color, could serve as witnesses against white people in court. "The appellant, a free white citizen of this State, was convicted of murder upon the testimony of Chinese witnesses.

The point involved in this case, is the admissibility of such evidence.

The 394th section of the Act Concerning Civil Cases, provides that no Indian or Negro shall be allowed to testify as a witness in any action or proceeding in which a White person is a party.

The 14th section of the Act of April 16th, 1850, regulating Criminal Proceedings, provides that "No Black or Mulatto person, or Indian, shall be allowed to give evidence in favor of, or against a white man."

Impact of the Ruling

The court ruled that Black people could not testify against white people:

"We are of the opinion that the words, 'White,' 'Negro,' 'Mulatto,' 'Indian,' and 'Black person,' wherever they occur in our Constitution and laws, must be taken in their generic sense, and that,

even admitting the Indian of this Continent is not the Mongolian type, that the words 'black person' in the 14th section must be taken as contradistinguished from White, and necessarily excludes all races other than Caucasian... the anomalous spectacle of a distinct people, living in our community,.. [405] whose mendacity is proverbial;.. differing in language, opinions, color, and physical conformation;...and for them is claimed, not only the right to swear away the life of a citizen, but the further privilege of participation with us in administering the affairs of our Government.."

People v. Hall (1854) 4 Cal. 399, 404

In re Archy (1858) 9 Cal. 147

Summary of Facts and Issues

"Charles A. Stovall, a citizen of the State of Mississippi, petitioned this Court for a writ of habeas corpus, for the recovery of his slave Archy."

California prohibited slavery for its permanent settlers, but allowed it for those claiming to be in the state temporarily, saying, "Our conclusion is, that the right of transit through each State, with every species of property known to the Constitution of the United States, and recognized by that paramount law, is secured by that instrument to each citizen, and does not depend upon the uncertain and changeable ground of mere comity."

Impact of the Ruling

Slaves brought to California were not technically free because of its free state status - Archy Lee was brought by Charles Stovall who claimed to be in California only temporarily. Even though the court said he could not sustain either status (traveler or visitor), it ruled in his favor. The court said:

But there are circumstances connected with this particular case that may exempt him from the operation of the rules laid down. This is the first case that has occurred under the existing law;.. under these circumstances we are not disposed to rigidly enforce the rule for the first time. But in references to all future cases, it is our purpose to enforce the rules laid down strictly, according to their true intent and spirit.. ordered that Archy be forthwith released from the custody of the Chief of Police, and given into the custody of the petitioner, Charles A. Stovall.

In re Archy (1858) 9 Cal. 147, 171

People v. Elyea (1859) 14 Cal. 144

Summary of Facts and Issues

"...One witness was a native of Turkey and was to testify against a white person - The indicium of color cannot be relied upon as an infallible test... under the statute... [146] The statute itself, after declaring that no black or mulatto person, or indian shall give evidence, etc. provides that persons having one eighth or more of negro blood, shall be deemed mulattoes, and persons having one half of indian blood, shall be deemed indians, thus rendering impossible the adoption of any rule of exclusion upon the basis of mere color... judgement... affirmed."

Impact of the Ruling

This case expanded the law that prohibited people of color from testifying to include certain ethnically defined white people, most of whom were new immigrants.

Norris v. Harris (1860) 15 Cal. 226

Summary of Facts and Issues

"The complaint charged defendant, L. B. Harris, with fraud, in misrepresenting to plaintiff the character and value of the stock in Texas, and also the authority of Amanda C. Harris, as executrix of the last will and testament of Dell, and as guardian of his children, to sell or exchange the property of the estate. It also alleged, that the agents of defendants failed and refused to deliver the stock on demand. The averments amount to this, that the contract between plaintiff and defendants was void, for fraud as above; for inability on the part of defendants to comply with the contract, by delivering to plaintiff all the negroes, horses, cattle, etc.--some of the negroes having been sold, and the number of the stock being greatly less than called for in the contract; and for want of power in Amanda C. Harris to sell the property, and give plaintiff good title to the same under the will of Dell."

Impact of the Ruling

This case is about what happens when slaves were part of wills and are sold. In Norris, the slaves were sold in California to someone who purchased land and other property in Texas from the seller. The slaves were part of this deal. When the purchaser returned to Texas to take ownership of the land, he found it was not as the sellers described. The buyer changed his mind and rescinded his purchase.

This case is not about slavery or race on its face, but it does exemplify how Black people were treated as property (chattel). They were lumped in with the horses, cattle, and land this family was selling, and no consideration was given to them or their humanity.

People v. Howard (1860) 17 Cal. 63

Summary of Facts and Issues

"The party injured may testify, in all cases, subject to this exception, that a black or mulatto person shall not be permitted to appear for or against a white person...[65] judgement... reversed." The defendant was initially convicted based on the testimony of a person who was 1/2 Black.

Impact of the Ruling

This case asks whether a person of "Black blood" be a competent witness when they were the injured party. This case contributed to the diminishing of Black people's rights in California, while giving white people blanket power to commit crimes against them. Black people could not testify against white people in court, even if they were the injured party.

Pleasants v. North Beach & Mission Railroad (1868) 34 Cal. 586

Summary of Facts and Issues

Mary Ellen Pleasants (a Black woman) sued to desegregate street cars: "The facts of this case are that the female plaintiff, (who is a woman of color,) being desirous to take passage on one of the street cars of defendant, hailed the Conductor and requested him to take her on board; that he disregarded her signal and failed to stop, and by reason of his declining to stop she was unable to get upon the car. It was also proved, under objections from the defendant, that the Conductor on being urged by a lady passenger already in the car to stop the car for the plaintiff, replied: "We don't take colored people in the cars;" and it was further proved that there was ample room for the plaintiff, and that she was provided with the usual passage tickets, and was ready and willing to pay the fare. There was no proof of any special damage; and the jury, having retired, without any charge from the Court, returned a verdict for the plaintiff for five hundred dollars."

Impact of the Ruling

Mary Ellen Pleasants was denied boarding a street car. She sued and was awarded \$500 in damages. The State Supreme Court reversed judgement stating, "The damages were excessive. There was no proof of special damage, nor of malice, .. Or violent conduct.. It was not a case of exemplary damages... It is unnecessary.. to decide..whether..it is necessary to aver.. malice and ill will. There being no such proof in this case, the Court might well have denied this instruction. Judgement reversed" and a new trial was ordered. This case illuminates activist Mary Ellen Pleasants's strategy for desegregating public transportation. She had the financial support to challenge discriminatory practices in public spaces and was able to challenge them in the courts. But the case also exemplifies how poorly Black people were treated in public spaces and on public transportation.

Turner v. N. B. & M. R. R. Co. (1868) 34 Cal. 594

Summary of Facts and Issues

"We are unable to conceive it possible that a jury free from... prejudice, upon so trivial a cause of action... could have found a verdict for so large a sum. The court held that the conductor acted out of his own malice - not the company's, and therefore, should not have been fined so heavily, reversed the judgment and ordered a new trial.

Impact of the Ruling

This case raised the question about an excessive award in favor of Turner who sued a streetcar company. This case, along with **Pleasants v. NB&M RR Co.** made it difficult for Black people to sue in court while creating heavy protection for businesses and ultimately, corporations.

In re Mana (1918) 178 Cal. 213

Summary of Facts and Issues

"Petitioner, convicted of a felony by a jury consisting in part of women, seeks release from custody on the ground that the act of the legislature authorizing women to sit as jurors is unconstitutional. The right to a trial by a jury is provided for in article I, section 7, of the constitution adopted by the people of the state of California in May, 1879, as follows:

'The petitioner claims that the word 'men' should be inserted by proper construction in the constitution, so that the constitution would in effect read: 'The right of trial by a jury of twelve men shall be secured to all'."

Impact of the Ruling

Here, the petitioner argues that women should be excluded from serving as jurors because when right to a jury trial was adopted by California in 1879, the common law only permitted that men be allowed to serve as jurors. However, at the time California adopted the right to jury trial, the **14th Amendment** prohibited discrimination on the basis of sex or race. To answer the question of whether women can be excluded as jurors, the Court illustrates a West Virginia case (**Strauder v. West Virginia (1880)** 100 U.S. 303) that holds that a Black man cannot be denied a jury with Black people, because a jury must consist of his "neighbors, fellows, associates, and persons having the same legal status in society as that which he holds." A jury with no Black people deciding the fate of a Black man would not consist of those qualities. Under that reason and the **14th Amendment**, the Court concludes that it was within the legislature's power to authorize women to sit as jurors.

This case explicitly acknowledges, from the West Virginia case, that if a Black defendant is denied the opportunity to have a jury with Black people, then the defendant's right to a trial by jury has been effectively denied. This case also concludes that it is not unconstitutional for a state legislature to authorize women to sit as jurors."

Martin v. Holm (1925) 197 Cal. 733

Summary of Facts and Issues

"Plaintiffs brought this action to establish and impose a general plan of building restrictions upon certain lots owned in fee by the defendants, who are the children, and heirs and grantees, of the original owners of a subdivided tract of land, and who are erecting buildings for business purposes in an alleged strictly residential tract. Trial was held before the court sitting without a jury, and the parties entered into a written stipulation by which the essential facts are agreed upon. Judgment was entered for the defendants, and plaintiffs prosecute this appeal."

Impact of the Ruling

Because the Court did not take any issue with the race-based discrimination in the restriction and went on to enforce it, the court implicitly endorsed the discrimination.

Mott v. Cline (1927) 200 Cal. 434

Summary of Facts and Issues

"This action was brought by the assignee of a lessee who was also the holder of an option against the owner and lessor of the let premises to compel specific performance of the option provision contained in the lease providing for the purchase by said lessee of the demised premises at any time during the

term of the lease. Said assignee, who relies solely upon the assignment of the option to purchase, made a tender between rent days of the purchase price as agreed upon by the owner and lessee and demanded the execution and delivery to him of a deed of the demised lands. The owner and lessor refused to comply with the demand to convey. The answer raised the question of the sufficiency of the tender. Judgment went for the plaintiff (assignee), hence this appeal.

The lands in suit are agricultural lands and are situated in the county of Madera, this state. On January 13, 1913, appellant, owner and lessor of said lands, entered into a written contract of lease with Ah Chue, a person of Mongolian blood and a subject of the Empire of China, and alleged to be within the inhibitory provisions of Statutes 1913, page 206, and other subsequent Alien Land Acts, all of which were adopted subsequent to the execution of the lease contract containing the option to purchase, the assignability of which is challenged."

Impact of the Ruling

In this case, the Court considered the **Alien Land Laws (1913)** and whether it was within the exercise of the state's police power to enact this legislation, and whether the legislation violates the state or federal constitution. The Alien Land Laws forbid Chinese "aliens" from owning land and acting as electors in California. The Court concluded that the legislation did not violate either Constitution, nor did it exceed the state's police power, this is because people owning soil must be bound by the obligations of citizenship. This holding clearly makes it constitutional to discriminate against immigrants and people of color or from different ethnic backgrounds, depending on how one interprets the definition of "alien."

O'Hara v. Grand Lodge I.O.G.T (1931) 213 Cal. 131

Summary of Facts and Issues

"The complaint alleges, in part, that the plaintiff corporation is a California corporation, organized in December, 1897; that about that date such corporation became the owner, as trustee, of part of the lands herein involved; that the purpose of such trust was to acquire a tract of land and operate thereon an orphanage; that on the thirteenth day of June, 1919, the Home for Orphans, conducted by plaintiff corporation under the terms of the trust, was closed and abandoned; that said home was abandoned for the reason that the plaintiff corporation was unable to acquire or secure sufficient sums of money properly to or at all conduct a home for orphans thereon; that the buildings of the orphanage had become so obsolete that rebuilding and remodeling had become necessary, at an expense which was prohibitive to plaintiff corporation; that for five years next preceding the closing of the orphanage very few orphans had applied for admission to the institution, until, in 1919, only two full and two half orphans were being cared for therein; that there was no longer any need for an orphans' home such as plaintiff corporation had been conducting; that the property held by plaintiff corporation under the terms of the trust did not, when taken with the other assets and property of such corporation, yield a sufficient income to carry on or conduct the home; that the real property involved at the time of sale,

was of the reasonable value of \$17,000; that after the closing of said home in 1919, the income from said property did not amount to the gross sum of \$2,000, from which sum all expenses had to be paid."

Impact of the Ruling

The main issues in this case were not explicitly racial; they were mostly concerned with charitable purposes of trusts. For example, whether a general charitable purpose can be the support of orphaned children. As an example of a general charitable purpose, the Court describes trusts created after the abolition of slavery for the benefit of the "negro race." Enforcing this policy of endorsing trusts created for the benefit of Black people following the abolition slavery would likely have a positive effect on people affected by slavery.

Simpson v. City of Los Angeles (1935) 4 Cal.2d 60

Summary of Facts and Issues

"Since the closing of Olvera Street to vehicular traffic, and through the offices, efforts and activities of Plaza de Los Angeles, a corporation, and its secretary, Mrs. Christine Sterling, Olvera Street has been converted into what might be termed a Mexican Village, and Avila Adobe has been placed in a state of repair and preservation as a permanent landmark. Before and at the time of the passage of the ordinance Olvera Street was unpaved and insanitary. Now it is paved its entire length and width with padre tile, with provision for proper drainage, and has been made clean and attractive with booths, balconies, awnings, canopies and other structures where Mexican wares and food are offered for sale by people of the Mexican race. Chains were put across either entrance to the street, and the street was then used only by pedestrian traffic. The venders in the street have not received any permit from the city nor do they pay a license fee to the city, but each contributes specified sums for the upkeep and maintenance of the street. In so far as the record shows the city has had no part in the creation of the Mexican village on Olvera Street except to afford the opportunity for its creation by the passage of ordinance 64715 (N.S.).

The plaintiff brought the present action against the city and various boards and officials and against Plaza de Los Angeles, Mrs. Christine Sterling and others, for the purpose of enjoining the enforcement of said ordinance and for the removal of the trees, booths, chains, and other structures and obstructions on Olvera Street. The basis for the action was and is that the ordinance is an unconstitutional exercise of the police power of the city and deprives the plaintiff, as an owner of real property abutting on a public street, of the property right of ingress and egress to and from her property without compensation first being paid therefor."

Impact of the Ruling

The Court ruled that it was within the city's police power to close Olvera Street due to vehicular traffic. This was because the city did not deprive a lessor's property of all vehicular access, it did not decrease the traffic to her street frontage, and the city had a rational basis for stopping vehicular traffic because Olvera Street was not a main thoroughfare to begin with.

As noted in the opinion, enforcing the ordinance that prohibited vehicular traffic on Olvera Street have led to successful efforts to convert the street into a "Mexican Village." This permitted a state of repair and preservation of certain historic landmarks on the street and a proliferation of Mexican culture.

Hughes v. Superior Court (1948) 32 Cal.2d 850

Summary of Facts and Issues

"The controlling issue is whether the sole objective involved — the discriminatory hiring of a fixed proportion of Negro employes regardless of all other considerations — is lawful. Relative to this issue it is to be particularly noted that here the only activity enjoined is "picketing . . . for the purpose of compelling . . . [Lucky] to . . . [engage in] the selective hiring of negro clerks . . . based on the proportion of white and negro customers who patronize . . . [Lucky's] stores." This is in contrast to the situation which was presented in *Park Tilfordl. Corp. v. International etc. of Teamsters (1946)*, supra, 27 Cal.2d 599, wherein the injunction which had been issued broadly forbade "concerted activities" for any purpose. As stated in that case (p. 614 of 27 Cal.2d), "Since defendants, in connection with their concerted activities, made unlawful demands that plaintiff sign a closed shop contract and coerce its employees to join defendant unions, it was permissible for the trial court to enjoin defendants from making such demands," but (p. 607 of 27 Cal.2d), "The injunction . . . was not limited to enjoining such demands but prohibited defendant's concerted activities and thus prevented defendants from exercising their right under the law of this state and of the federal government to engage in such activities for a closed shop." It is also to be borne in mind that the proceeding before us is not an appeal from the order granting an injunction but is a petition for certiorari to annul a contempt adjudication."

Impact of the Ruling

Petitioners picketed a store, arguing that the store should have clerks more representative of the racial makeup of its customers (i.e., that there should be more Black store clerks). Afterward, a preliminary injunction was placed on them to stop picketing. The state Superior Court found the picketers guilty of contempt for violating a preliminary injunction. The state Supreme Court affirmed the lower court, reasoning that race-based/selective hiring is discriminatory and that the injunction was proper. The Court reasoned that "the **Fourteenth Amendment** did not bar a State from use of injunction to prohibit picketing of a store solely in order to secure compliance with demand that store's employees be in proportion to racial origin of its then customers."

People v. Gullick (1961) 55 Cal.2d 540

Summary of Facts and Issues

"Defendants Theodore Gullick and James Robert Crumbey appeal from judgments of conviction entered on a jury verdict finding them guilty of burglary and assault with a deadly weapon and from orders denying their motions for new trial.

Boy's Market in Los Angeles was burglarized and James W. Robinson, a porter in the market, was assaulted on the evening of February 15, 1959. There were two principal witnesses for the prosecution, Robinson, the porter, and William Grant, Jr., a confessed conspirator, who implicated defendants after a promise of immunity from the district attorney. Defendants contend that they had no connection with the crimes.

Robinson testified that he was alone in the market cleaning up after closing hours when he was surprised by two men who stabbed and beat him and then tied him up. He managed to shuffle into the elevator, where he was found three hours later by police officers and the vice-president of the market. An officer testified that Robinson described his assailants as "Two male Negroes, one five foot six and one five foot seven, one weighed 150 and the other 152; they both had black hair; eyes, color unknown: One wearing brown coat and the other dark shirt."

He testified, however, that at that time an officer told him that they had the men who committed the crime and wanted him to identify them. His testimony was confused and contradictory. He testified that there were two lineups about four minutes apart and that there were only three colored men in the lineup, defendants and Grant."

Impact of the Ruling

The issue of race arises because the witness to a crime was asked to give the description of the assailants, but he did so with police influence. Otherwise, there are no legal issues that were decided on the basis of race. The Court determined:

From a review of the entire record, we have concluded that it is reasonably probable that the jury concluded that Robinson had no independent recollection of the identity of his assailants and identified defendants at the trial solely because the officers had told him that they had the men who committed the crime and then presented defendants to him. If so, Grant's testimony was crucial, and instructions on accomplice testimony essential. Under these circumstances it is "reasonably probable that a result more favorable" to defendants would have been reached in the absence of the error," and accordingly the error is prejudicial. (**People v. Watson**, 46 Cal.2d 818, 836 [299 P.2d 243].

This case illustrates how police influenced investigations that resulted in the arrests (and often convictions) of Black people, contributing to the mass incarceration of Black and Brown people.

Murgia v. Municipal Court (1975) 15 Cal.3d 286

Summary of Facts and Issues

"We face here the narrow question whether the instant criminal defendants may obtain a discovery order directing the prosecutor to produce information relevant to defendants' claim that various penal statutes are being discriminately enforced against them. Defendants, members of the United Farm

Workers Union (hereafter UFW), allege that the law enforcement authorities of an entire county have engaged in a deliberate, systematic practice of discriminatory enforcement of the criminal law against UFW members and supporters. Defendants maintain that the equal protection clauses of the federal and state Constitutions safeguard individuals from such "intentional and purposeful" invidious discrimination and authorize defendants to raise such prosecutorial discrimination as a defense to the misdemeanor charges pending against them. The trial court denied all discovery on this "discriminatory prosecution" issue, and defendants now seek a writ of mandate challenging that ruling."

Impact of the Ruling

The defendants sought a writ of mandate challenging the trial court's ruling that denied all discovery on discriminatory prosecution issues. Defendants were members of the United Farm Workers Union and alleged that local law enforcement were utilizing penal statutes discriminatorily against people of color. **Equal Protection Clauses of Federal and State Constitutions** safeguard individuals from intentional and purposeful invidious discrimination in enforcement of all laws, including penal statutes, and a defendant may raise such a claim of discrimination as a ground for dismissal of a criminal prosecution.

People v. Wheeler (1978) 22 Cal.3d 258

Summary of Facts and Issues

"We begin with a claim of error arising at the very outset of the trial and infecting the entire remainder of the proceedings. Defendants are both black; the man they were accused of murdering was white; a number of blacks were in the venire summoned to hear the case, were called to the jury box, were questioned on voir dire, and were passed for cause; yet the prosecutor proceeded to strike each and every black from the jury by means of his peremptory challenges, and the jury that finally tried and convicted these defendants was all white. The issue is whether in such circumstances defendants were denied their right to trial by an impartial jury guaranteed by the California Constitution. The question is one of first impressions in this court.

Not surprisingly, the record is unclear as to the exact number of blacks struck from the jury by the prosecutor: veniremen are not required to announce their race, religion, or ethnic origin when they enter the box, and these matters are not ordinarily explored on voir dire. The reason, of course, is that the courts of California are — or should be — blind to all such distinctions among our citizens."

Impact of the Ruling

This case is about the use of peremptory challenges to remove prospective jurors on the sole ground of group bias violates right to trial by jury drawn from a representative cross section of the community as guaranteed by state constitutional provision.

The Prosecution used all of their peremptory challenges to remove Black jurors from the jury. In doing so, the jury and alternates were all white, and decided against a Black defendant.

The Court, noted, "...the representative cross-section rule also serves other essential functions in our society, such as legitimating the judgments of the courts, promoting citizen participation in government, and preventing further stigmatizing of minority groups." *People v. Wheeler* (1978) 22 Cal.3d 258, 267 fn. 6. This case also shows how juries could be constructed to contribute to the mass incarceration of Black and Brown people and questions what it means to truly be tried by a jury of one's peers.

People v. Allen (1979) 23 Cal.3d 286

Summary of Facts and Issue

"In March 1976, defendants Eugene Allen and Ernest E. Graham were convicted of violating Penal Code section 4500, aggravated assault by a life prisoner. At the time the offense was committed, section 4500 prescribed the death penalty as the automatic, mandatory punishment whenever, as in this case, the assault was directed against a nonprisoner and resulted in the victim's death within a year and a day. Accordingly, the trial court sentenced both defendants to death. The case is now before this court pursuant to the statutorily prescribed automatic appeal. (Cal. Const., art. VI, § 11; Pen. Code, § 1239, subd. (b).)

On appeal, defendants attack their convictions on numerous grounds. In view of this court's recent decision in *People v. Wheeler* (1978) 22 Cal.3d 258 [148 Cal.Rptr. 890, 583 P.2d 748], however, we find it necessary to address only defendants' principal challenge to the verdict of guilt, an attack focusing upon the prosecutorial use of peremptory challenges to exclude all potential jurors who were black from the petit jury. In *Wheeler*, we concluded that under the California Constitution the prosecution may not exercise its peremptory challenges on the basis of "group bias" to exclude potential jurors from a jury in a criminal case; pursuant to that conclusion, we held that when a defendant makes a prima facie showing that the prosecution has used its peremptory challenges in such a manner in a particular case, the burden shifts to the prosecution to demonstrate that the peremptory challenges in question have not been based on group bias but rather rest on independent, legitimate grounds."

Impact of the Ruling

In this case, two Black men were on trial for aggravated assault by a prisoner sentenced to life, which carried a mandatory death sentence. As *Wheeler* established, peremptory challenges may not be used based on race alone. In this case, the prosecutor used peremptory challenges to remove 14 Black potential jury members from different genders, economic backgrounds, etc., leaving race as the only other commonality. The Court affirmed the state's commitment to diverse juries:

Inasmuch as the record contains no justification for the prosecution's challenged course of conduct, our *Wheeler* decision establishes that the trial court erred in rejecting defendants' objections to the jury selection process and in permitting the case to be tried by a jury from which Black prospective jurors had been unconstitutionally excluded. Accordingly, we conclude that the judgments must be reversed.

This case serves as another example of the challenges Black people faced in securing equal treatment in the legal process. While African Americans were considered equal legally, Black people faced so many obstacles, and being tried by a jury of peers is simply one of them.

People v. Bower (1979) 24 Cal.3d 638

Summary of Facts and Issues

"This court must decide whether an officer may constitutionally detain a citizen because he is a white man who happens to be with a group of black men in a black residential area at 8:37 p.m." He was arrested and convicted of possession of a concealed firearm, Pen. Code, § 12021.

Impact of the Ruling

The California Supreme Court determined that a white man hanging out with Black men in a predominantly Black neighborhood was not a valid reason to be detained. This case shows that policing in Black communities subjected people to accusations of drug dealing/buying, robbery, and other illegal activities.

People v. Hall (1983) 35 Cal.3d 161

Summary of Facts and Issues

"Defendant appeals from a judgment of conviction entered on jury verdicts finding him guilty of violating Penal Code sections 245, subdivision (a), and 236. We reverse, having concluded that the trial court failed to exercise its judgment in determining whether the prosecutor's use of peremptory challenges was for reasons relevant to the case before it or reflected a constitutionally impermissible group bias. (See **People v. Wheeler** (1978) 22 Cal.3d 258 [148 Cal.Rptr. 890, 583 P.2d 748].)"

Impact of the Ruling

A Black defendant was tried and convicted for false imprisonment, assault to cause bodily harm, and assault to commit rape. He believed the prosecutor used his peremptory challenges to remove all Black jurors solely on the basis of race. In addition to this, the court failed to properly evaluate whether that was the reason the prosecutor excused those Black potential jurors.

People v. Motton (1985) 39 Cal.3d 596

Summary of Facts and Issues

"Defendant appeals from a conviction for second degree murder. During the selection of the jury, defense counsel objected that the prosecutor was exercising his peremptory challenges to exclude Black women from the jury. Counsel subsequently objected that the prosecutor was excluding Blacks generally. We reverse the judgment on the ground that the trial court erred on both occasions in finding that counsel had not made a prima facie case of discriminatory exclusion."

Impact of the Ruling

The defendant was convicted of second-degree murder. The California Supreme Court held that Black people generally, and Black women specifically, are considered members of a "cognizable" group within

the Wheeler rule. Black women were at the intersection of racial and sexual identity. The prosecutor used a disproportionate number of challenges to exclude them.

People v. Snow (1987) 44 Cal.3d 216

Summary of Facts and Issues

"Defendant Prentice Juan Snow appeals from a judgment imposing the death penalty following his conviction of first degree murder (Pen. Code, § 187; all further statutory references are to this code unless otherwise indicated), accompanied by a special circumstance finding (§ 190.2, subd. (a)(10) [killing a witness to prevent his testimony]) and a firearm-use finding (§ 12022.5). As will appear, we conclude that the entire judgment must be reversed for **Wheeler** error (**People v. Wheeler** (1978) 22 Cal.3d 258 [148 Cal.Rptr. 890, 583 P.2d 748]) that occurred during the jury selection process. In addition to discussing the Wheeler issue, we also, for guidance on retrial, reach one of defendant's other claims of error."

Impact of the Ruling

Prentice Juan Snow, a Black man, was convicted of first-degree murder of a white victim and sentenced to death. The State Supreme Court held that the trial court's failure to require the prosecutor to explain his peremptory challenges of Black potential jurors was reversible. The prosecutors continuously passed on Black members of the jury pool, resulting in a predominantly white jury. They argued that the defense did the same by excusing potential white jurors. The Court, however, found that the prosecution indeed attempted to exclude Black people from serving on the jury and that because African Americans can be considered a cognizable group (See, **People v. Motton and Wheeler**), the prosecution intentionally tried creating a white jury.

People v. Wright (1988) 45 Cal.3d 1126

Summary of Facts and Issues

"In this case we consider whether the trial court erred in rejecting five special jury instructions which defendant requested relating to the accuracy of eyewitness identifications. Defendant was convicted of armed robbery and related offenses in connection with a robbery at gunpoint by several masked men. The sole evidence against him at trial was eyewitness identification.

We conclude that the court correctly declined to give four of the five requested instructions. We also conclude that the court erred in failing to give an instruction listing the factors the jury could consider in evaluating eyewitness identifications, but we find the error was harmless."

Impact of the Ruling

The California Supreme Court found that a defendant, convicted of armed robbery, was not entitled to an instruction that eyewitness identification should be received cautiously. Justice Mosk, in the dissent, discussed studies that show significant impairment in white witnesses' attempts to recognize black faces.

People v. Johnson (1989) 47 Cal.3d 1194

Summary of Facts and Issues

"Defendant contends that the granting of hardship exclusions because of the projected length of the trial tended to systematically exclude poor persons in a disproportionate manner. His contention fails." And, "Even assuming that only poor persons were given hardship exclusions, a fact not proven here, persons with low incomes do not constitute a cognizable class."

Impact of the Ruling

The state Supreme Court found that the prosecutor's peremptory challenges to Black jurors were not improper because it was based on individual evaluations of each juror's bias (e.g. a Black juror was prejudiced against police officers whom he believed treated Black people differently).

People v. Morales (1989) 48 Cal.3d 527

Summary of Facts and Issues

"We conclude that defendant here did not make a prima facie showing sufficient to shift the burden of explanation or justification to the People. First, his statistical showing was based upon an inadequate sample. Certainly, no case cited by defendant has held that a prima facie case of systematic exclusion can be made based on statistics derived from only two consecutive sample jury panels. The sample was too small in size, and too short in duration, to support a finding of unreasonable underrepresentation or systematic exclusion."

Impact of the Ruling

A Latino defendant was convicted of murder and sentenced to death. The state Supreme Court found that a negligent approach to implementing race-neutral excusal practices was insufficient for a prima facie case of systematically excluding Latinos.

People v. Fuentes (1991) 54 Cal.3d 707

Summary of Facts and Issues

"We conclude that defendant's constitutional right to trial by a jury drawn from a representative cross-section of the community (**Cal. Const., art. I, § 16**) was violated by the trial court's failure to carefully evaluate the prosecutor's explanations for peremptory challenges to Black prospective jurors, which it must do in order to determine whether the challenges reflected a constitutionally impermissible group bias. (See **People v. Wheeler** (1978) 22 Cal.3d 258 [148 Cal.Rptr. 890, 583 P.2d 748] (hereafter Wheeler); **People v. Hall** (1983) 35 Cal.3d 161 [197 Cal.Rptr. 71, 672 P.2d 854].)"

Impact of the Ruling

Jose Leon Fuentes was convicted of murder and sentenced to death. The California Supreme Court held that his right to trial by a representative jury was violated by trial court's failure to evaluate the prosecutor's peremptory challenges to Black jurors. The Court found that the lower court must address

challenges individually by examining if the prosecutor's reasoning was valid and if that reason actually prompted the challenge.

People v. Turner (1994) 8 Cal.4th 137

Summary of Facts and Issues

"Defendant contends the prosecutor impermissibly used peremptory challenges to exclude members of a cognizable group from the jury in violation of his right to trial by a jury drawn from a representative cross-section of the community, guaranteed by article I, section 16 of the California Constitution, and of the prospective jurors' right of equal protection. These claims are without merit.

Defendant is Black, and both victims were White. The prosecutor used four of his six peremptory challenges against Black prospective jurors. Defendant used two of his seven peremptory challenges against Black prospective jurors, both of whom were identified by the prosecution as acceptable jurors. The jury that was ultimately impaneled contained five Black jurors."

Impact of the Ruling

A Black defendant was convicted of murdering two white people. The state Supreme Court held that prosecutor's reasons for a peremptory challenge against a Black potential juror by noting her negative experience with law enforcement was race-neutral. Specifically, one of the things the juror mentioned was that she had family members who were victims of violence and never saw justice.

California Proposition 209, Affirmative Action Initiative (1996)

Constitutional Amendment to end Affirmative Action Programs in California.

Impact of the Law

Added Section 31 to the State's Constitution: "the state shall not grant preferential treatment to any individual group on the basis of race, sex, color, ethnicity, or national origin the operation of public employment, public education, or public contracting."

Hi-Voltage Wire Works, Inc. v. City of San Jose (2000) 24 Cal.4th 537

Summary of Facts and Issues

"Subsequent to the approval of **Proposition 209**, the City of San Jose adopted a program that requires contractors bidding on city projects to utilize a specified percentage of minority and women subcontractors or to document efforts to include minority and women subcontractors in their bids."

"Viewing the provisions of article I, section 31 from this perspective, it is clear the voters intended to adopt the original construction of the Civil Rights Act and prohibit the kind of preferential treatment accorded by this program."

Impact of the Ruling

This case clarified discrimination as laid out in Proposition 209 utilizing the following definitions:
 Discrimination - "to make distinctions in treatment; show partiality (in favor of) or prejudice (against)"
 and Preferential - "giving of priority or advantage to one person or group over others."

People v. Harris (2013) 57 Cal.4th 804

Summary of Facts and Issues

Willie Leo Harris was convicted of murdering and sexually assaulting Alicia Manning. He challenged the outcome on multiple bases. One was that prosecution unjustly removed prospective Black jurors. The Court found that the defense failed to initially establish sufficient evidence in this area, among others, but in terms of race, the Court said, "The trial court found that defendant had not made a prima facie showing that the two challenges were based on race; the prosecutor then declined the court's invitation to state his reasons for the challenges. In upholding the trial court's ruling, a majority of this court relies on race-neutral reasons that are apparent from the record."

Impact of the Ruling

In this case, the defendant could not prove that the Black jurors who were excused were removed because of their race and that the defendant did not have sufficient evidence to support such a claim.

People v. Mai, 57 (2013) Cal. 4th 986

"Defendant Hung Thanh Mai was convicted by the court, as charged, of the first degree murder of Don Joseph Burt (Pen.Code, §§ 187, 189). The court further found true, as a special circumstance, the allegation that the killing was intentional, and that defendant knew or should have known the victim was a peace officer engaged in the performance of duty. (§ 190.2, subd. (a)(7) (section 190.2(a)(7)).) A penalty jury returned a death verdict. The automatic motion for modification of the verdict (§ 190.4, subd. (e)) was denied, and defendant was sentenced to death. This appeal is automatic. (Cal. Const., art. VI, § 11, subd. (a); Pen.Code, § 1239, subd. (b).) We will affirm the judgment in its entirety."

Impact of the Ruling

At issue is the argument about who constitutes a jury of your peers as guaranteed by the Constitution. When a jury has no jurors who resemble the defendant, the defendant is more likely to receive a conviction, especially if they are Black. In this case, a man was convicted of murdering a police officer and sentenced to death. The defense challenged the prosecutor's reasons for excusing three Black jurors, but the court found that the prosecutor's reasoning was race-neutral.

California Proposition 16 - Repeal Proposition 209 Affirmative Action Amendment (2020)

Summary of the Proposition

Rejected: Keep Prop. 209 - "the government and public institutions cannot discriminate against or grant preferential treatment of persons on the basis on race, sex, color, ethnicity, or national origin in public employment, public education, and public contracting." Voters can decide to repeal Prop 209, making Affirmative Action another center of political debate.