IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

KAREN L. STRAUSS, et al.,

Petitioners,

v.

MARK B. HORTON, State Registrar of Vital Statistics, etc., et al.,

Respondents,

DENNIS HOLLINGSWORTH, et al.,

Interveners.

S168047

RESPONDENT'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF ANSWER BRIEF TO PETITIONS FOR WRIT OF MANDATE; DECLARATION OF DEPUTY ATTORNEY GENERAL KIMBERLY GRAHAM; PROPOSED ORDER

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Edmund G. Brown Jr. in his official capacity

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

KAREN L. STRAUSS, et al., Petitioners, v. **MARK D. HORTON, State Registrar of Vital Statistics, etc., et al.,** Respondents, **DENNIS HOLLINGSWORTH, et al.,** Intervenors.	S168047

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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

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TO PETITIONERS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Respondent Edmund G. Brown Jr., in his official capacity as Attorney General for the State of California, (Respondent) hereby moves the California Supreme Court to take judicial notice of various materials that support Respondents' answer brief.

This motion is made on the following grounds:

1) Evidence Code sections 452, subdivisions (a), (c), (g) and (h) authorize this Court to take judicial notice of the material offered by Respondent; and

2) The materials offered by Respondent are relevant to the issues raised in the petitions and addressed in Respondents' brief.

This motion is based on this Notice of Motion, the accompanying Memorandum of Points and Authorities, the Declaration of Deputy Attorney General Kimberly Graham and the attached exhibits, and such other matters as may properly come before this court.

Dated: December 19, 2008

K. Graham

KIMBERLY J. GRAHAM
Deputy Attorney General

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF RESPONDENT'S REQUEST FOR JUDICIAL NOTICE

I.

INTRODUCTION

Respondent Edmund G. Brown Jr., in his official capacity as Attorney General for the State of California, (Respondent) hereby requests that this Court take judicial notice of materials relied upon by Respondent in drafting the answer brief to the petitions seeking writ relief.

The materials include:

- Documents from the Secretary of State regarding the initiatives qualifying for the general election and certification of the election results;
- Ballot pamphlet materials for the years 1911,1962, 1966, 1970, 1972, 1974, 1978, 1986, 1988 and 2008;
- Inaugural address of Former Governor Hiram Johnson;
- Report of the debates at the Constitutional Convention of 1849;
- Ballot pamphlet material from sister state, Arkansas; and
- Report of the California Constitution Revision Commission.

II.

THE EVIDENCE CODE AND THE RULES OF COURT PERMIT THIS COURT TO TAKE JUDICIAL NOTICE OF CERTAIN MATTERS REQUESTED BY RESPONDENTS.

Appellate courts may take judicial notice of any matter subject to discretionary judicial notice by the trial court under Evidence Code section

452. (Evid. Code, § 459, subd (a).) "'Judicial notice is the recognition and acceptance by the court, for use by the trier of fact or by the court, of the existence of a matter of law or fact that is relevant to an issue in the action without requiring formal proof of the matter.' [Citation.]" (*Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort* (2001) 91 Cal.App.4th 875, 882.) Judicial notice may not be taken of any matter unless authorized or required by law. (Evid. Code, § 450.)

The Evidence Code provides that judicial notice may be taken of various matters, including: "[t]he decisional, constitutional, and statutory law of any state[,]" "[o]fficial acts of the legislative, executive, and judicial departments . . . of any state of the United States[,]" "[r]ecords of . . . of any court of this state[,]" "[f]acts and propositions that are of such common knowledge within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute[,]" and "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." (Evid. Code, § 452, subds. (a), (c), (d), (g), and (h).)

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The matters that Respondent seeks to have judicially notice are:

A. Records from the Secretary of State's Office: Respondent requests that this Court judicially notice the following records from the Secretary of State's Office:

- Press Release, dated June 2, 2008, which may be located at http://www.sos.ca.gov/admin/news- releases.htm. (Attached as **Exhibit 1** to the Declaration of Deputy Attorney General Kimberly Graham (DAG Graham Dec.).)

- Press Release, dated December 13, 2008, which may be located at http://www.sos.ca.gov/admin/news- releases.htm. (Attached as **Exhibit 2** to DAG Graham Dec.)

- Statement of the Vote, November 4, 2008, General Election, which may be located at http://www.sos.ca.gov/elections/sov/2008_general /contents.htm. (Attached as **Exhibit 3** to DAG Graham Dec.)

The matters discussed in the press releases include information concerning how and when Proposition 8 qualified as an initiative constitutional amendment for the November 2008 General Election, and the certified election results. These types of press releases may be judicially noticed pursuant to Evidence Code section 452, subdivisions (g) and (h), as they concern matters of such common knowledge and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (See *Kagan v. Kearney* (1978) 85 Cal.App.3d 1010, 1016 [taking judicial notice of the fact that the registrar disseminated

election information through press releases to all the media and thus the public was aware of certain election information]; *Huntington Beach City Council v. Superior Court* (2002) 94 Cal.App.4th 1417, 1424 fn. 2 [taking judicial notice of election results].)

These press releases are relevant to Respondent's answer brief because they explain the process under which Proposition 8 was placed on the ballot and verify that the measure was passed by a majority of voters.

Regarding the Statement of Vote, this document is judicially noticeable pursuant to Evidence Code section 452, subdivision (c), because it is an official act of the Secretary of State, a constitutional officer in the executive branch of government. The Secretary of State is required, pursuant to statute, to certify the election results. (See Elec. Code, § 15501.)

B. Inaugural Address of Former Governor Hiram Johnson:

Respondent requests that this Court take judicial notice of the inaugural address of former Governor Hiram Johnson, which may be located at http://www.californiagovernors.ca.gov/h /documents/inaugural_23. html. (Attached as **Exhibit 4** to DAG Graham Dec.)

The matters discussed in the inaugural address provide important background information regarding the politics of 1911 – the year that the voters approved a constitutional amendment that created the initiative

process -- and thus are relevant to the issues being reviewed by this Court. This type of information may be judicially noticed pursuant to Evidence Code section 452, subdivision (h), as it concerns information that is not reasonably subject to dispute and is capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (See also *Dahl v. Secretary of U.S. Navy* (E.D. Cal. 1993) 830 F.Supp. 1319, 1334 fn. 15 [taking judicial notice of a speech by former President William Jefferson Clinton].)

C. Ballot Pamphlet Information: Respondent requests that this Court judicially notice the following ballot pamphlet information:

- Ballot Pamphlet for the Special Election held on October 10, 1911, argument against SCA 22, which may be located at http://library.uchastings.edu/ballot_pdf/index.html. (Attached as **Exhibit 5** to DAG Graham Dec.)

- Ballot Pamphlet for 1962 General Election, containing Proposition 7, which may be located at http://library.uchastings.edu/ballot_pdf/index.html. (Attached as **Exhibit 6** to DAG Graham Dec.)

- Ballot Pamphlet for 1966 General Election, containing Proposition 1a, which may be located at http://library.uchastings.edu/ballot_pdf/index.html. (Attached as **Exhibit 7** to DAG Graham Dec.)

- Ballot Pamphlet for 1970 General Election, containing Proposition 16, which may be located at http://library.uchastings.edu/ballot_pdf/index.html. (Attached as **Exhibit 8** to DAG Graham Dec.)

- Ballot Pamphlet for 1972 General Election, containing Proposition 11, which may be located at http://library.uchastings.edu/ballot_pdf/index.html. (Attached as **Exhibit 9** to DAG Graham Dec.)

- Ballot Pamphlet for 1974 General Election, containing Proposition 7, which may be located at http://library.uchastings.edu/ballot_pdf/index.html. (Attached as **Exhibit 10** to DAG Graham Dec.)

- Ballot Pamphlet for 1978 General Election, containing Proposition 6, which may be located at http://library.uchastings.edu/ballot_pdf/index.html. (Attached as **Exhibit 11** to DAG Graham Dec.)

- Ballot Pamphlet for 1986 General Election, containing Proposition 64, which may be located at http://library.uchastings.edu/ballot_pdf/index.html. (Attached as **Exhibit 12** to DAG Graham Dec.)

- Ballot Pamphlet for 1988 Primary Election, containing Proposition 69, which may be located at http://library.uchastings.edu/ballot_pdf/index.html. (Attached as **Exhibit 13** to DAG Graham Dec.)

- Ballot Pamphlet for 2008 General Election, containing Proposition 8, which may be located at http://library.uchastings.edu/ballot_pdf/index.html. (Attached as **Exhibit 14** to DAG Graham Dec.)

The ballot pamphlets are relevant to the issues being reviewed by this Court because they contain the arguments for and against various measures, as well as an impartial legislative analysis. The propositions discussed in these ballot pamphlets concern the process for amending and revising the constitution, the process for amending the constitution by initiative, and

discuss the right of privacy and the guarantee of equal protection, all of which are at issue in this case.

This type of information may be judicially noticed pursuant to Evidence Code section 452, subdivision (c), as an official act of an executive department of this state. In addition, the ballot pamphlets contain information that is not reasonably subject to dispute and is capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (Evid. Code, § 452, subd. (h); see *People v. Superior Court* (*Romero*) (1996) 13 Cal.4th 497, 504 fn. 1 [taking judicial notice of materials relevant to the history of Assembly Bill No. 971 and of Proposition 184]; see also *People v. Whaley* (2008) 160 Cal.App.4th 779, 788 fn. 9 [taking judicial notice of ballot pamphlet argument ~~in favor of Proposition~~ 83].)

D. Report of Debates from 1849 Constitutional Convention:

Respondent requests that this Court take judicial notice of excerpts from the report of the debates that occurred during the 1849 Constitutional Convention. (Attached as **Exhibit 15** to DAG Graham Dec.)[1/] The debates are relevant to the issues before this Court because they will assist in

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1. The report on the debates of the 1849 Constitutional Convention may also be located at http://books.google.com and searching for "California Constitution 1849 Debates."

determining the intent of the framers of the California Constitution regarding revision and amendment.

These types of materials may be judicially noticed pursuant to Evidence Code section 452, subdivisions (g) and (h), as they concern matters of common knowledge and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (See *California Association of Retail Tobacconists v. State of California* (2003) 109 Cal.App.4th 792, 816 [recognizing that the trial court took judicial notice of the debates from the 1849 Constitutional Convention].)

E. Ballot Material from Arkansas: Respondent requests that this Court take judicial notice of the ballot material from our sister state of Arkansas; specifically, Arkansas Proposed Initiative Act No. 1, General Election 2008, which was passed by a majority of voters in that state. (Attached as **Exhibit 16** to DAG Graham Dec.)

This material is relevant to the issues before this Court because it provides information concerning analogous legal issues and how such issues were resolved by our sister states. This type of information may be judicially noticed pursuant to Evidence Code section 452, subdivision (a), as it is decisional and statutory law of any state of the United States. In addition, this material may be judicially noticed pursuant to Evidence Code section

452, subdivisions (g) and (h), as it concerns matters of common knowledge and is capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

F. Report of the California Constitutional Revision Commission: Respondent requests that this Court take judicial notice of a report of the California Constitutional Revision Commission, entitled "Constitution Revision – History and Perspective." (Attached as **Exhibit 17** of DAG Graham Dec.). The report is relevant because it provides a historical perspective to the work and recommendations of the Commission, which had a significant impact on the language contained in the California Constitution.

This type of report is judicially noticeable pursuant to Evidence Code section 452, subdivision (c), on the basis that it is an official act of a state agency or department. (*Rodas v. Spiegel* (2001) 87 Cal.App.4th 513, 518 [taking judicial notice of records, reports, and orders of administrative agencies]; see also *In re McDonnell's Adoption* (1947) 77 Cal.App.2d 805, 808 [taking judicial notice of the official files of a state department].) In addition, the report may be judicially noticeable pursuant Evidence Code section 452, subdivisions (g) and (h), as it concerns matters of common

knowledge and is capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

III.

CONCLUSION

Based on the foregoing, Respondent respectfully requests that this Court grant his request for judicial notice of Exhibits 1 through 17.

Dated: December 19, 2008

K. Graham

KIMBERLY J. GRAHAM
Deputy Attorney General

DECLARATION OF DEPUTY ATTORNEY GENERAL KIMBERLY GRAHAM IN SUPPORT OF RESPONDENT'S REQUEST FOR JUDICIAL NOTICE

I, KIMBERLY GRAHAM, declare as follows:

1. I am an attorney licensed to practice before all courts of the State of California. I am a Deputy Attorney General employed by the California Department of Justice, Office of the Attorney General, counsel for Respondent Edmund G. Brown Jr., in his official capacity as Attorney General for the State of California, (Respondents).

2. I have personal knowledge of the contents of this declaration and may competently testify thereto.

3. Attached as Exhibit 1 is a true and correct copy of a press release from the Secretary of State, dated June 2, 2008. I downloaded a copy of this press release from the following website: http://www.sos.ca.gov/admin/news- releases.htm.

4. Attached as Exhibit 2 is a true and correct copy of a press release from the Secretary of State, dated December 13, 2008. I downloaded a copy of this press release from the following website: http://www.sos.ca.gov/admin/news- releases.htm.

5. Attached as Exhibit 3 is a true and correct copy of the Statement of the Vote, November 4, 2008, General Election, issued by the Secretary of State. I downloaded a copy of this document from the following website: http://www.sos.ca.gov/elections/sov/2008_general /contents.htm.

6. Attached as Exhibit 4 is a true and correct copy of inaugural address of former Governor Hiram Johnson. I downloaded a copy of this document from the following website: http://www.californiagovernors.ca.gov/h /documents/inaugural_23. html.

7. Attached as Exhibit 5 is a true and correct copy of the ballot pamphlet from the Special Election held on October 10, 1911 containing information regarding Senate Constitutional Amendment 22, which created the initiative process. I downloaded a copy of this document from the following website: http://library.uchastings.edu/ballot_pdf/index.html.

8. Attached as Exhibit 6 is a true and correct copy of the ballot pamphlet from the 1962 General Election containing information regarding Proposition 7. I downloaded a copy of this document from the following website: http://library.uchastings.edu/ballot_pdf/index.html.

9. Attached as Exhibit 7 is a true a correct copy of the ballot pamphlet from the 1966 General Election containing information regarding

Proposition 1a. I downloaded a copy of this document from the following website: http://library.uchastings.edu/ballot_pdf/index.html.

10. Attached as Exhibit 8 is a true and correct copy of the ballot pamphlet from the 1970 General Election containing information regarding Proposition 16. I downloaded a copy of this document from the following website: http://library.uchastings.edu/ballot_pdf/index.html.

11. Attached as Exhibit 9 is a true and correct copy of the ballot pamphlet from the 1972 General Election containing information regarding Proposition 11. I downloaded a copy of this document from the following website: http://library.uchastings.edu/ballot_pdf/index.html.

12. Attached as Exhibit 10 is a true and correct copy of the ballot pamphlet from the 1974 General Election containing information regarding Proposition 7. I downloaded a copy of this document from the following website: http://library.uchastings.edu/ballot_pdf/index.html.

13. Attached as Exhibit 11 is a true and correct copy of the ballot pamphlet from the 1978 General Election containing information regarding Proposition 6. I downloaded a copy of this document from the following website: http://library.uchastings.edu/ballot_pdf/index.html.

14. Attached as Exhibit 12 is a true and correct copy of the ballot pamphlet from the 1986 General Election containing information regarding

Proposition 64. I downloaded a copy of this document from the following website: http://library.uchastings.edu/ballot_pdf/index.html.

15. Attached as Exhibit 13 is a true and correct copy of the ballot pamphlet from the 1988 Primary Election containing information regarding Proposition 69. I downloaded a copy of this document from the following website: http://library.uchastings.edu/ballot_pdf/index.html.

16. Attached as Exhibit 14 is a true and correct copy of the ballot pamphlet from the 2008 General Election containing information regarding Proposition 8. I downloaded a copy of this document from the following website: http://library.uchastings.edu/ballot_pdf/index.html.

17. Attached as Exhibit 15 are true and correct copies of excerpts from the Report of Debated from 1849 Constitutional Convention. I downloaded a copy of this document from the following website and searching from "California Constitution 1849 Debates": http://books.google.com.

18. Attached as Exhibit 16 is a true and correct copy of ballot material regarding an initiative passed in Arkansas during the 2008 General Election. I downloaded a copy of this document from the following website: http://www.votenaturally.org/2008_ballot_08_const_amendments.html.

19. Attached as Exhibit 17 is a true and correct copy of an excerpt from the Report of the California Constitutional Revision Commission (1996) on State Governance.

I declare under penalty of perjury under the laws of the State of California that foregoing is true and correct. Executed this 19th day of December, 2008, in Sacramento, California.

K. Graham

KIMBERLY J. GRAHAM
Deputy Attorney General

DECLARATION OF SERVICE BY FACSIMILE AND MAIL

Case Name: ***Karen L. Strauss, et al. v. Mark D. Horton, et al.***

Case No.: **S168047**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business. My facsimile machine telephone number is (916) 324-8835.

On December 19, 2008, I served the attached **RESPONDENT'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF ANSWER BRIEF TO PETITIONS FOR WRIT OF MANDATE; DECLARATION OF DEPUTY ATTORNEY GENERAL KIMBERLY GRAHAM; PROPOSED ORDER** by transmitting a true copy by facsimile machine, pursuant to California Rules of Court, rule 2.306. The facsimile machine I used complied with Rule 2.306, and no error was reported by the machine. Pursuant to rule 2.306(g)(4), I caused the machine to print a record of the transmission, a copy of which is attached to this declaration. In addition, I placed a true copy thereof enclosed in a sealed envelope with postage thereof fully prepaid, in the internal mail system of the Office of the Attorney General, addressed as follows:

PLEASE SEE THE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 19, 2008, at Sacramento, California.

Rowena A.R. Aquino
Declarant

Signature

10462770 wpd

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "1"

DEBRA BOWEN
CALIFORNIA SECRETARY OF STATE
NEWS RELEASE

DB08:108

FOR IMMEDIATE RELEASE
December 13, 2008

Contact: Kate Folmar
(916) 653-6575

Secretary of State Debra Bowen Reports Record Number Of Californians Cast Ballots in November General Election

SACRAMENTO – More than 13.7 million voters cast ballots in the November 4, 2008, General Election, setting a new California record for the number of ballots cast in an election, according to final results certified today by Secretary of State Debra Bowen.

The previous record for the number of votes cast in a California election was nearly 12.6 million, set in November 2004. This November, 79.4% of California's 17.3 million registered voters cast ballots, marking the highest turnout on a percentage basis since 1976. The highest-ever percentage turnout in a California election was nearly 88.4% in 1964, when Lyndon B. Johnson defeated Barry Goldwater in the presidential contest.

"This was an election for the history books," said Secretary Bowen, the state's chief elections officer. "Record numbers of Californians registered to vote and cast ballots in an exceptionally smooth election. I applaud voters for getting so involved in their democracy and I happily tip my hat to county elections officials for running such a successful election."

The counties with the highest turnout on a percentage basis were Sonoma at 93.4%, Marin at 90.8%, and Amador at 88.6%. Turnout was also strong in California's most populous counties of Los Angeles (78.4%), San Diego (83.7%), Orange (72.6%), San Bernardino (74.3%), and Riverside (78.5%).

More than 5.7 million voters, or 41.6%, cast their ballots by mail. The remaining 8 million California voters, or 58.4%, voted in polling places.

The certified election results are available on the Secretary of State's website at http://www.sos.ca.gov/elections/sov/2008_general/contents.htm. County-by-county statistics on the number of voters who cast ballots by mail or at polling places are available at http://www.sos.ca.gov/elections/sov/2008_general/3_voter_part_stats_by_county.pdf. Historical statistics on voter eligibility, registration, and turnout are available at http://www.sos.ca.gov/elections/sov/2008_general/4_historical_voter_reg_and_participation.pdf.

The Statement of Vote shows presidential results broken down by county. It also includes statewide and county-specific results for the 12 statewide ballot measures on the November ballot.

The Secretary of State's office will release a Supplement to the Statement of Vote by April 12. It will include more details on how votes were cast by Senate, Assembly, Board of Equalization,

– MORE –

and county supervisorial districts, as well as by city.

California's next regularly scheduled statewide election is the June 8, 2010, Primary Election. More information about state elections is available at http://www.sos.ca.gov/elections/elections.htm.

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Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "2"

DEBRA BOWEN
CALIFORNIA SECRETARY OF STATE
NEWS RELEASE

DB08:068

FOR IMMEDIATE RELEASE
June 2, 2008

CONTACT: Kate Folmar
(916) 653-6575

Secretary of State Debra Bowen Certifies Eighth Measure for November 4, 2008, General Election

SACRAMENTO – Secretary of State Debra Bowen today certified the eighth initiative for the November 4, 2008, General Election ballot. The measure would amend California's Constitution to define marriage as a union "between a man and a woman."

The first seven propositions to qualify for the November ballot were a high-speed rail bond, a measure relating to the treatment of farm animals, a children's hospital bond, a parental notification for abortion measure, a measure involving the sentencing of nonviolent offenders, a measure regarding increased criminal penalties and public safety funding, and a renewable energy measure.

In order to qualify for the ballot, the marriage definition measure needed 694,354 valid petition signatures, which is equal to 8% of the total votes cast for governor in the November 2006 General Election. The initiative proponents submitted 1,120,801 signatures in an attempt to qualify the measure, and it qualified through the random sample signature check.

County elections officials have 30 working days to verify the validity of the signatures filed with their offices using a random sampling method. The state Elections Code requires elections officials to verify 500 signatures, or 3% of the number of signatures filed in their county, whichever is greater. Counties receiving fewer than 500 petition signatures are required to verify all the signatures filed in their offices.

A measure can qualify via random sampling, without further verification, if the sampling projects a number of valid signatures greater than 110% of the required number. This measure needed at least 763,790 projected valid signatures to qualify by random sampling, and it exceeded that threshold today with 764,063 projected valid signatures.

The Attorney General's official title and summary of the initiative is as follows:

> **LIMIT ON MARRIAGE. CONSTITUTIONAL AMENDMENT.** Amends the California Constitution to provide that only marriage between a man and a woman is valid or recognized in California. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: The measure would have no fiscal effect on state or local governments. This is because there would be no change to the manner in which marriages are currently recognized by the state. (Initiative 07-0068.)

– MORE –

The initiative proponents, Dennis Hollingsworth, Gail J. Knight, Martin F. Gutierrez, Hak-Shing William Tam, and Mark A. Jansson, can be reached at (916) 608-3065.

The last day to qualify a measure for the November General Election ballot is June 26.

For more information about how an initiative qualifies for the ballot in California, go to http://www.sos.ca.gov/elections/initiative_guide.htm.

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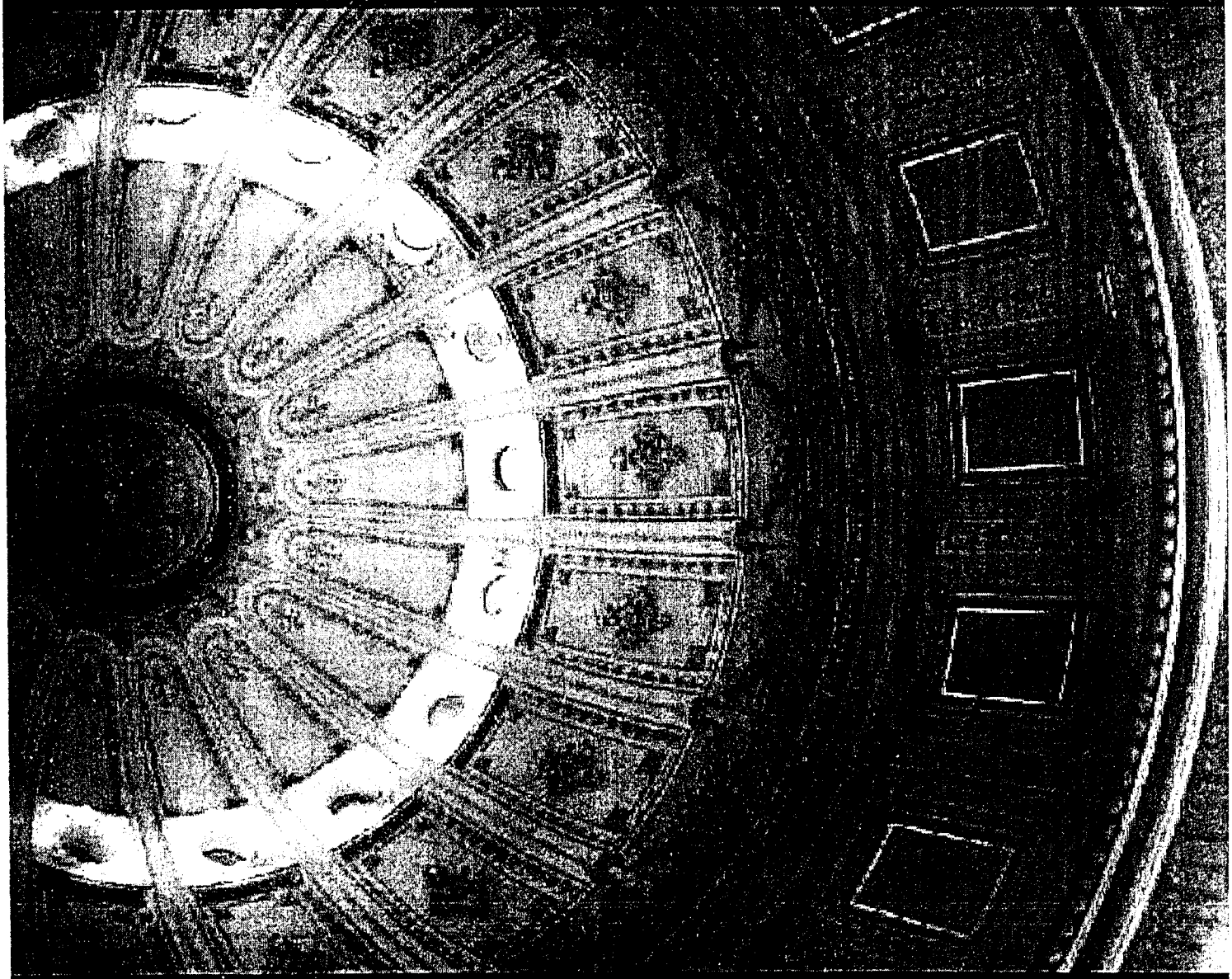
Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "3"

Statement of Vote
November 4, 2008, General Election



California Secretary of State Debra Bowen

TABLE OF CONTENTS

OFFICIAL DECLARATION OF THE VOTE RESULTS ON NOVEMBER 4, 2008, STATE BALLOT MEASURES

The following proposed laws were approved by voters:

State Ballot Measure Number	Ballot Title
1A	Safe, Reliable High-Speed Passenger Train Bond Act.
2	Standards for Confining Farm Animals. Initiative Statute.
3	Children's Hospital Bond Act. Grant Program. Initiative Statute.
8	Eliminates Right of Same-Sex Couples to Marry. Initiative Constitutional Amendment.
9	Criminal Justice System. Victims' Rights. Parole. Initiative Constitutional Amendment and Statute.
11	Redistricting. Initiative Constitutional Amendment and Statute.
12	Veterans' Bond Act of 2008.

The following proposed laws were defeated by voters:

State Ballot Measure Number	Ballot Title
4	Waiting Period and Parental Notification Before Termination of Minor's Pregnancy. Initiative Constitutional Amendment.
5	Nonviolent Drug Offenses. Sentencing, Parole and Rehabilitation. Initiative Statute.
6	Police and Law Enforcement Funding. Criminal Penalties and Laws. Initiative Statute.
7	Renewable Energy Generation. Initiative Statute.
10	Alternative Fuel Vehicles and Renewable Energy. Bonds. Initiative Statute.

VOTES FOR AND AGAINST
NOVEMBER 4, 2008, STATE BALLOT MEASURES

State Ballot Measure Number	For		Against	
	Votes	Percent	Votes	Percent
1A	6,680,485	52.70%	6,015,944	47.30%
2	8,203,769	63.50%	4,731,738	36.50%
3	6,984,319	55.30%	5,654,586	44.70%
4	6,220,473	48.00%	6,728,478	52.00%
5	5,155,206	40.50%	7,566,783	59.50%
6	3,824,372	30.80%	8,559,647	69.20%
7	4,502,235	35.50%	8,155,181	64.50%
8	7,001,084	52.30%	6,401,482	47.70%
9	6,682,465	53.90%	5,728,968	46.10%
10	5,098,666	40.50%	7,464,154	59.50%
11	6,095,033	50.90%	5,897,655	49.10%
12	7,807,630	63.60%	4,481,196	36.40%

Effective Date of State Ballot Measures

"An initiative...approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise... If provisions of two or more measures approved at the same election conflict, those [provisions] of the measure receiving the highest affirmative vote shall prevail."

California Constitution, Article II, Section 10.

"A proposed [legislative] amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If a provision of two or more measures approved at the same election conflict, those [provisions] of the measure receiving the highest affirmative vote shall prevail."

California Constitution, Article XVIII, Section 4.

Bond proposals submitted to the electors by the Legislature also become effective upon approval by a majority of votes thereon.

California Constitution, Article XVI, Section 1.

Certificate of the Secretary of State

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the following is a full, true, and correct statement of the result of the official canvass of the returns of the November 4, 2008, General Election.

IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of California, at Sacramento, this 13th day of December, 2008.

Debra Bowen

DEBRA BOWEN
Secretary of State

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "4"

Inaugural Address

Hiram Johnson

23rd Governor, Republican
(1911-1917)

Presented: January 3, 1911
[Second Inaugural - January 5, 1915]

To the Senate and Assembly of the State of California:

In the political struggle from which we have just emerged the issue was so sharply defined and so thoroughly understood that it may be superfluous for me to indicate the policy which in the ensuing four years will control the executive department of the State of California. The electorate has rendered its decision, a decision conclusive upon all its representatives; but while we know the sort of government demanded and decreed by the people, it may not be amiss to suggest the means by which that kind of administration may be attained and continued. "Successful and permanent government must rest primarily on recognition of the rights of men and the absolute sovereignty of the people. Upon these principles is based the superstructure of our republic. Their maintenance and perpetuation measure the life of the republic." It was upon this theory that we undertook originally to go to the people; it was this theory that was adopted by the people; it is upon this theory, so far as your Executive is concerned, that this government shall be henceforth conducted. The problem first presented to us, therefore, is how best can the government be made responsive to the people alone? Matters of material prosperity and advancement, conservation of resources, development of that which lies within our borders, are easy of solution when once the primal question of the people's rule shall have been determined. In some form or other nearly every governmental problem that involves the health, the happiness, or the prosperity of the State has arisen, because some private interest has intervened or has sought for its own gain to exploit either the resources or the politics of the State. I take it, therefore, that the first duty that is mine to perform is to eliminate every private interest from the government, and to make the public service of the State responsive solely to the people. The State is entitled to the highest efficiency in our public service, and that efficiency I shall endeavor at all times to give. It is obvious that the requisite degree of efficiency can not be attained where any public servant divides his allegiance between the public service and a private interest. Where under our political system, therefore, there exists any appointee of the Governor who is representing a political

machine or a corporation that has been devoting itself in part to our politics, that appointee will be replaced by an official who will devote himself exclusively and solely to the service of the State. In this fashion, so far as it can be accomplished by the Executive, the government of California shall be made a government for the people. If there are in existence now any appointees who represent the system of politics which has been in vogue in this State for many years and who have divided their allegiance between the State and a private interest of any sort, or if there be in existence any Commission of like character, and I can not alone deal with either, then I shall look to the Legislature to aid me in my design to eliminate special interests from the government and to require from our officials the highest efficiency and an undivided allegiance; and I shall expect such legislative action to be taken as may be necessary to accomplish the desired result.

In pursuing this policy, so long as we deal only with the ward-heeler who holds a petty official position as a reward for political service, or with the weak and vacillating small politician, we will have the support and indeed the commendation of all the people and all the press; but as we go a little higher, with firm resolve and absolute determination, we will begin to meet with opposition here and there to our plan, and various arguments, apparently put forth in good faith for the retention of this official or that, will make their appearance; and finally when we reach, if we do, some representative, not only of the former political master of this State, the Southern Pacific Company, but an apostle of "big business" as well (that business that believes all government is a mere thing for exploitation and private gain), a storm of indignation will meet us from all of those who have been parties to or partisans of the political system that has obtained in the past; and particularly that portion of the public press which is responsive to private interest and believes that private interest should control our government, will, in mock indignation and pretended horror, cry out against the desecration of the public service and the awful politics which would permit the people to rule. Much, doubtless, will be said of destructiveness, of abuse of power, of anarchistic tendencies and the like, and of the astounding and incomparable fitness of him who represents "big business" to represent us all. And in the end it may be that the very plan, simple, and direct, to which we have set ourselves in this administration will be wholly distorted and will be understood only by those who, with singleness of purpose, are working for a return of popular government in California.

It matters not how powerful the individual may be who is in the service of the State, nor how much wealth and influence there may be behind him, nor how strenuously he may be supported by "big business" and by all that has been heretofore powerful and omnipotent in our political life, if he be the representative of Southern Pacific politics, or if he be one of that class who divides his allegiance to the State with a private interest and thus impairs his efficiency, I shall attack him the more readily because of his power and his influence and the wealth behind him, and I shall strive in respect to such a one in exactly the same way as with his weaker and less powerful

accomplices. I prefer, as less dangerous to society, the political thug of the water front to the smugly respectable individual in broadcloth of pretended respectability who from ambush employs and uses that thug for his selfish political gain.

In the consummation of our design at last to have the people rule, we shall go forward, without malice or hatred, not in animosity or personal hostility, but calmly, coolly, pertinaciously, unswervingly and with absolute determination, until the public service reflects only the public good and represents alone the people.

THE INITIATIVE, REFERENDUM, AND RECALL.

When, with your assistance, California's government shall be composed only of those who recognize one sovereign and master, the people, then is presented to us the question of, How best can we arm the people to protect themselves hereafter? If we can give to the people the means by which they may accomplish such other reforms as they desire, the means as well by which they may prevent the misuse of the power temporarily centralized in the Legislature, and an admonitory and precautionary measure which will ever be present before weak officials, and the existence of which will prevent the necessity for its use, then all that lies in our power will have been done in the direction of safeguarding the future and for the perpetuation of the theory upon which we ourselves shall conduct this government. This means for accomplishing other reforms has been designated the "Initiative and the referendum," and the precautionary measure by which a recalcitrant official can be removed is designated the "Recall." And while I do not by any means believe the initiative, the referendum, and the recall are the panacea for all our political ills, yet they do give to the electorate the power of action when desired, and they do place in the hands of the people the means by which they may protect themselves. I recommend to you, therefore, and I most strongly urge, that the first step in our design to preserve and perpetuate popular government shall be the adoption of the initiative, the referendum, and the recall. I recognize that this must be accomplished, so far as the State is concerned, by constitutional amendment. But I hope that at the earliest possible date the amendments may be submitted to the people, and that you take the steps necessary for that purpose. I will not here go into detail as to the proposed measures. I have collected what I know many of your members have—the various constitutional amendments now in force in different states—and at a future time, if desired, the detail to be applied in this State may be taken up. Suffice it to say, so far as the recall is concerned, did the solution of the matter rest with me, I would apply it to every official. I commend to you the proposition that, after all, the initiative and the referendum depend on our confidence in the people and in their ability to govern. The opponents of direct legislation and the recall, however they may phrase their opposition, in reality believe the people can not be trusted. On the other hand, those of us who espouse these measures do so because of our deep-rooted belief in popular government, and not only in the right of the people

to govern, but in their ability to govern; and this leads us logically to the belief that if the people have the right, the ability, and the intelligence to elect, they have as well the right, ability, and intelligence to reject or to recall; and this applies with equal force to an administrative or a judicial officer. I suggest, therefore, that if you believe in the recall, and if in your wisdom you desire its adoption by the people, you make no exception in its application. It has been suggested that by immediate legislation you can make the recall applicable to counties without the necessity of constitutional amendment. If this be so, and if you believe in the adoption of this particular measure, there is no reason why the Legislature should not at once give to the counties of the State the right which we expect to accord to the whole State by virtue of constitutional amendment.

Were we to do nothing else during our terms of office than to require and compel an undivided allegiance to the State from all its servants, and then to place in the hands of the people the means by which they could continue that allegiance, with the power to legislate for themselves when they desired, we would have thus accomplished perhaps the greatest service that could be rendered our State. With public servants whose sole thought is the good of the State the prosperity of the State is assured, exaction and extortion from the people will be at an end, in every material aspect advancement will be ours, development and progress will follow as a matter of course, and popular government will be perpetuated.

THE RAILROAD QUESTION.

For many years in the past, shippers, and those generally dealing with the Southern Pacific Company, have been demanding protection against the rates fixed by that corporation. The demand has been answered by the corporation by the simple expedient of taking over the government of the State; and instead of regulation of the railroads, as the framers of the new Constitution fondly hoped, the railroad has regulated the State.

To Californians it is quite unnecessary to recall the motives that actuated the framers of the new Constitution when Article XII was adopted. It was thought that the Railroad Commission thereby created would be the bulwark between the people and the exactions and extortions and discriminations of the transportation companies. That the scheme then adopted has not proved effective has become only too plain. That this arose because of the individuals constituting the Railroad Commission is in the main true, but it is also apparent there has been a settled purpose on the part of the Southern Pacific Company not only to elect its own Railroad Commission, but also wherever those Commissioners made any attempt, however feeble, to act, to arrest the powers of the Commission, and to have those powers circumscribed within the narrowest limits. All of us who recall the adoption of the new Constitution will remember that we then supposed the most plenary powers were conferred upon the Commission. It has been gravely asserted of late, however, by those representing the Railroad Company, and they insist that in the decisions of our courts there

is foundation for the assertion, that the Constitution does not give the Commission power to fix absolute rates. In my opinion this power is conferred upon the Commission, and in this I am upheld by the Attorney General of the State, and by the very able and eminent attorneys who represent the various traffic associations.

The people are indeed fortunate now in having a Railroad Commission of ability, integrity, energy, and courage. I suggest to you, and I recommend, that you give to the Commission the amplest power that can be conferred upon it. The president of the Railroad Commission, Mr. John M. Eshleman, in conjunction with Attorney General Webb, Senator Stetson, and others, in all of whom we have the highest confidence, has been at work preparing a bill which shall meet the requirements of the case, and I commend to your particular attention this instrument.

I would suggest that an appropriation of at least $75,000 be made for the use of the Commission that it may, by careful hearing and the taking of evidence, determine the physical value of the transportation companies in the State of California, and that the Commission may have the power and the means to determine this physical value justly and fairly, and thereafter ascertain the value of improvements, betterments and the like, and upon the values thus determined may fix the railroad rates within the State of California.

It is asserted that some ambiguity exists in that portion of the language of Section 22 of Article XII of the Constitution, which fixes the penalty when any railroad company shall fail or refuse to conform to rates established by the Commission or shall charge rates in excess thereof, and it is claimed that the use of the last phrase "or shall charge rates in excess thereof" excludes the power to punish discrimination by the railroad companies. The rational construction of the language used can lead to no such conclusion; but if you believe there is any ambiguity in the constitutional provision as it now exists, or any doubt of the power conferred by it upon the Railroad Commission, I would suggest that this matter be remedied by a constitutional amendment. In no event, however, should action in reference to needed legislation and that herein suggested be deferred. It is not unlikely that the ingenuity of those who represent the railroad companies will pretend, and find some advocates in this, that all legislative action should await the amendment of the Constitution. I trust that you will not permit this specious plea to prevail, but that you will at once accord the power to the Commission that is designed by the bill referred to.

I beg of you not to permit the bogie man of the railroad companies, "Unconstitutionality," to deter you from enacting the legislation suggested, if you believe that legislation to be necessary; and I trust that none of us will be terrified by the threat of resort to the courts that follows the instant a railroad extortion is resented or attempted to be remedied. Let us do our full duty, now that at last we have a Railroad Commission that will do its full duty, and let us give this Commission all the power and aid and resources it

requires; and if thereafter legitimate work done within the law and the Constitution shall be nullified, let the consequences rest with the nullifying power.

AMENDMENT OF DIRECT PRIMARY LAW.

California took a long step toward popular government when the direct primary law was enacted. The first experiment under the direct primary law has been made, and despite the predictions of the cynical and the critical, the law has been a success and has come to stay. It may, however, be improved in many respects, and so recent has been the discussion of the minor imperfections of the act that they are familiar to us all; and I think the desire is general to remedy those defects. When the law shall have been amended and its imperfections corrected, and when it shall have been made less difficult for one to become a candidate for public office (and this should be one of the designs of amendment, I think), the important question of dealing with the candidacy for United States Senator remains. Of course, the Constitution of the United States requires that United States Senators shall be elected by state legislatures. Notwithstanding the popular demand expressed now for a quarter of a century that United States Senators should be elected by direct vote of the people, we have been unable to amend the Federal Constitution; but the people in more than half the states are striving to effect the same result by indirection. The result is that our people, in common with those of most of the states, are seeking to have the people themselves elect United States Senators. I do not think it is extravagant to say that nine electors out of ten in California desire the electorate directly to choose United States Senators, and if they possessed the power they would remove the selection wholly from the Legislature. The present primary law in its partisan features does not attain the desired result. And the present law, in its provision relating to United States Senators, is at variance with the wishes of an overwhelming majority of our people. Some of those who desire direct election may wish a selection made by parties, while others would eliminate all partisan features in such an election; yet all wish a selection by the whole State by plurality; and the present provisions of the primary law meet with the approval of none who really wish the election of United States Senator by direct vote. I suggest to you, therefore, that the present law be amended so that there be a state-wide advisory vote upon United States Senator; and the logical result of a desire to elect United States Senators by direct vote of the people is that that election shall be of any person who may be a candidate, no matter what party he may be affiliated with. For that reason I favor the Oregon plan, as it is termed, whereby the candidate for this office as for any other office may be voted for, and by which the candidate receiving the highest number of votes may be ultimately selected. If in your wisdom you believe we should not go to the full extent expressed in my views, then, in any event, the primary law should make the vote for the United States Senator state-wide so that the vote of the whole State, irrespective of districts, shall control.

SHORT BALLOT.

The most advanced thought in our nation has reached the conclusion that we can best avoid blind voting and best obtain the discrimination of the electorate by a short ballot. A very well known editor in our State, during a recent lecture at Stanford University, challenged the faculty of that great institution to produce a single man who had cast an intelligent vote for the office of State Treasurer, and none was produced. Fortunately our State Treasurer is the highest type of citizen and official. The reason the challenge could not be met was that, in the hurry of our existence and in the engrossing importance of the contests for one or two offices, we can not or do not inform ourselves sufficiently regarding the candidates for minor offices. Again, we elect some officials whose duties are merely clerical or ministerial and whose qualifications naturally can not be well understood. Of course it is undesirable, and indeed detrimental, that we should elect officials of whom we know nothing and concerning whom the electorate can not learn and can not discriminate. It is equally undesirable that those occupying merely clerical positions should be voted for by the entire electorate of the State. The result of a long ballot is that often candidates for minor offices are elected who are unfit or unsatisfactory. This conclusion, I think, has been reached by students and the farseeing in every state in the Union. If we can remedy this condition it is our duty to do so, and it is plain that the remedy is by limiting the elective list of offices to those that are naturally conspicuous. One familiar with the subject recently said: "The little offices must either go off the ballot and be appointed, no matter how awkwardly, or they must be increased in real public importance by added powers until they rise into such eminence as to be visible to all the people.
* * *

That candidates should be conspicuous is vital. The people must be able to see what they are doing; they must know the candidates, otherwise they are not in control of the situation but are only going through the motions of controlling."

The Supreme Court of the State has asked that the Clerk of the Supreme Court, now elective, shall be made appointive. It is eminently just that this should be so. It is quite absurd that the people of an entire state should be called upon to vote for a clerk of the Supreme Court. The office of State Printer is merely administrative. Presumably an expert printer is selected to fill this position, and in the selection of an expert no reason at all exists for the entire electorate selecting that particular expert. The Surveyor General likewise performs merely ministerial duties, presumably is only an expert, and his selection should be by appointment rather than election. The Superintendent of Public Instruction, an expert educator, is in the same category. The government of the United States is conducted with all of its departments with only two elective officers, the President and Vice-President. The President has surrounding him a Cabinet, the members of which perform all of the duties that are ministerial in character. The Treasurer of the State of California performs duties akin to those of the Secretary of the Treasury of the United States. He does nothing initiative in character, and his office could better be filled by appointment than election.

The Secretary of State is in reality merely the head clerk of the State, and as a clerk of the Supreme Court may be better selected by the Supreme Court itself, so the Secretary of State, as chief clerk of the State, may be better selected by the head of the State. The Attorney General could in like fashion be appointed, and if appointed his office could be made the general office of all legal departments of the State. Every attorneyship of the State that now exists, of commissions, and boards, and officials, could be put under his control, and a general scheme of state legal department could thus be successfully evolved—a department economical, efficient, and permanent, and even non-partisan in its character if desired.

Were these various officials appointed by the Governor, the chief officer of the State could surround himself with a cabinet like the cabinet of the Chief Executive of the nation, and a more compact, perhaps more centralized and possibly a more efficient government, established. I would leave the Controller an elective officer because, theoretically at least, the Controller is a check upon the other officials of the State, and thus should be independent. Were these suggestions carried out, the State ballot would consist of a Governor, Lieutenant Governor, Controller, members of the judiciary, and members of the Legislature. Of course, any change we might make as herein suggested could not operate upon officials now in office or during any of our terms.

I recognize that the reform here suggested is radical and advanced, but I commend it to your careful consideration.

OTHER BALLOT REFORM.

All of the parties in the State of California are committed to the policy of restoring the Australian ballot to its original form; and, therefore, I merely call to your attention that restoration as one of the duties that devolves upon us because of party pledges.

NON-PARTISAN JUDICIARY.

And the return of the Australian ballot to the form which first we adopted in this State provides an easy mode for the redemption of the promises that have been made in respect to non-partisan judiciary. With the party circle eliminated, and with the names of the candidates for office printed immediately under the designation of the office, when upon the ballot the title of the judiciary is reached, the names of all the candidates may be printed without any party designation following those names; and in this fashion all of the candidates for judicial position will be presented to the people with nothing to indicate the political parties with which they have been affiliated.

COUNTY HOME RULE.

One of the most vexatious subjects with which legislatures have to deal is

respecting classification, salaries, etc., of the various counties. The astonishing amount of time occupied by our Legislature in county government bills can only be understood by those who have been familiar with legislative work. I quote from a report by Controller Nye upon the subject:

> "The first Legislature after the adoption of the Constitution commenced by making ten classes of counties, which number soon increased to more than forty, and at the present time there are fifty-eight classes, exactly equaling the number of counties. "If there were no other evidence of the folly of trying to legislate on county salaries by general laws, this would be conclusive. But the change of these general laws to meet the supposed needs of different counties has been incessant. In the legislative session of 1905 there were forty-five amendments to the salary schedules of as many counties; in 1907 there were fifty-seven such amendments, one for every county then existing, and in 1909 there were fifty. "So great are the evils of this form of legislation that we deem the only permanent remedy for them to be the submission and adoption of an amendment which will permit each county, proceeding along the same general lines as those prescribed for cities, to draft its own county government act, subject to ratification by the Legislature. The amendment should enumerate the subjects which may be embraced in these county government acts, or county charters, so framed, and they should include the number and compensation of officers, the granting or withholding of fees, the determination whether the county board of supervisors shall be elected by districts or at large, also the determination whether other county officers shall be elected or appointed, and such other similar matters of local concern as will not interfere with the operation of the general plan of State Government."

I quite agree with the views expressed by our Controller, and adopt his recommendation. It is but just and proper that counties should rule themselves just as cities do, and if this be accomplished we will have succeeded in taking from the Legislature perhaps a most vexatious subject, and one with which of necessity it oftentimes can not deal with intelligence, and we will have saved to the Legislature and the State the immense amount of time that is now expended by the Legislature upon the subject. Of course, care must be exercised in any change that practical uniformity is preserved.

CIVIL SERVICE AND THE MERIT SYSTEM.

In the first subject with which I have dealt, I defined clearly my attitude in regard to public service. Too often it has occurred that appointments to the public service have been made solely because of political affiliations or as a reward for political service. It is a design of the present administration to

put in force the merit system, and it is our hope to continue that system by virtue of a civil service enactment. The committee recently appointed by the Republican State Central Committee presented an act, covering the subject, which I commend to you.

CONSERVATION.

In the abstract all agree upon the policy of conservation. It is only when we deal with conservation in the concrete that we find opposition to the enforcement of the doctrine enunciated originally by Gifford Pinchot and Theodore Roosevelt. Conservation means development, but development and preservation; and it would seem that no argument should be required on the question of preserving, so far as we may, for all of the people, those things which naturally belong to all. The great natural wealth of water in this State has been permitted, under our existing laws and lack of system, to be misappropriated and to be held to the great disadvantage of its economical development. The present laws in this respect should be amended. If it can be demonstrated that claims are wrongfully or illegally held, those claims should revert to the State. A rational and equitable code and method of procedure for water conservation and development should be adopted.

REFORMATORY FOR FIRST OFFENDERS.

Humanity requires that we should provide a reformatory for first offenders. All of us are agreed upon this matter, and your wisdom will determine the best mode of its consummation.

EMPLOYERS' LIABILITY LAW.

Upon the righteousness of an Employers' Liability Law, no more apt expression can be found than that of ex-President Roosevelt on last Labor Day. He said:

> "In what is called 'Employers' Liability' legislation other industrial countries have accepted the principle that the industry must bear the monetary burden of its human sacrifices, and that the employee who is injured shall have a fixed and definite sum. The United States still proceeds on an outworn and curiously improper principle, in accordance with which it has too often been held by the courts that the frightful burden of the accident shall be borne in its entirety by the very person least able to bear it. Fortunately, in a number of states—in Wisconsin and in New York, for instance—these defects in our industrial life are either being remedied or else are being made a subject of intelligent study, with a view to their remedy."

In this State all parties stand committed to a just and adequate law whereby the risk of the employment shall be placed not upon the employee alone,

but upon the employment itself. Some new legal questions will be required to be solved in this connection, and the fellow servant rule now in vogue in this State will probably be abrogated and the doctrine of contributory negligence abridged. It is hoped that those in our State who have given most study to this subject will soon present to you a comprehensive bill, and when this shall have been done the matter will again be made a subject of communication by me.

I have purposely refrained to-day from indulging in panegyrics upon the beauty, grandeur, wealth, and prosperity of our State; or from solemnly declaring that we will foster industries, and aid in all that is material. It goes without saying that, whatever political or other differences may exist among our citizens, all are proud of California, its unbounded resources, its unsurpassed scenic grandeur, its climatic conditions that compel the wandering admiration of the world; and all will devotedly lend their aid to the proper development of the State, to the protection and preservation of that which our citizens have acquired, and that which industrially is in our midst. Ours of course is a glorious destiny, to the promotion and consummation of which we look forward with pride and affection, and to which we pledge our highest endeavor. Hand in hand with that prosperity and material development that we foster, and that will be ours practically in any event, goes political development. The hope of governmental accomplishment for progress and purity politically is with us in this new era. This hope and wish for accomplishment for the supremacy of the right and its maintenance, I believe to be with every member of the Legislature. It is in no partisan spirit that I have addressed you; it is in no partisan spirit that I appeal to you for aid. Democrats and Republicans alike are citizens, and equal patriotism is in each. Your aid, your comfort, your highest resolve and endeavor, I bespeak, not as Republicans or Democrats, but as representatives of all the people of all classes and political affiliations, as patriots indeed, for the advancement and progress and righteousness and uplift of California.

And may God in his mercy grant us the strength and the courage to do the right!

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "5"

Full Text

Record: 1116

Proposition # 7
Title [**Initiative** and Referendum.]
Year/Election **1911** general
Proposition type Senate Constitutional Amendment
Summary [**Initiative** and Referendum.]

7. SENATE CONSTITUTIONAL AMENDMENT NO. 22.

CHAPTER 22. - *Senate Constitutional Amendment No. 22. A resolution to propose to the people of the State of California an amendment to the constitution of said state, by amending section 1 of article 4 thereof, relating to legislative powers, and reserving to the people of the State of California the power to propose laws, statutes and amendments to the constitution and to enact the same at the polls, independent of the legislature and also reserving to the people of the State of California the power to approve or reject at the polls any act or section or part of any act of the legislature.*

NOTICE TO VOTERS.

In the matter following, the provisions of the constitution as they now exist are printed in the ordinary faced type; the proposed changes in the constitution and new provisions thereof are shown in **black-faced type.** The reasons given by the legislature for the adoption or rejection of such proposed constitutional amendments are shown enclosed in border.

FRANK C. JORDAN, Secretary of State.

For

REASONS WHY SENATE CONSTITUTIONAL AMENDMENT NO. 22 SHOULD BE ADOPTED.

It's importance. This amendment, if adopted, will secure to the people the powers of the **initiative** and referendum.

It will give the people power to control legislation of the state, and make it to represent what the law should always reflect, the will and wish of the people.

The ***initiative*** will reserve tot he people the power to propose and to enact laws

which the legislature may have refused or neglected to enact, and to themselves propose constitutional amendments for adoption.

The *referendum* will reserve to the people the power to pass judgment upon the acts of the legislature, and to prevent objectionable measures taking effect. In short, will enable the people to enact laws, or amend the constitution, and veto vicious or unsatisfactory laws enacted by the legislature. The first step toward good government is the making of good laws. This amendment will give the people power to make good laws or compel the legislature to do so.

*The **initiative**.* Electors equal to eight per cent of the total vote for governor, at the last general election, may, by petition, propose and cause a statute or constitutional amendment to be submitted to the people, for their approval or rejection, at the next general election, or at a special election, to be called by the governor in his discretion; while electors equal to five per cent of said vote for governor can require a proposed statute to be submitted to the legislature, and if the legislature does not enact such statute, then to the people. In this case, however, the legislature has the privilege of submitting to the people, at the same time, a different or amended measure on the same subject. No **initiative** measure is subject to the governor's veto, nor, when adopted, can it be amended or repealed except by the people, unless the measure itself shall differently provide. If a conflict arise between provisions adopted and approved by the electors at the same election, that receiving the highest vote shall prevail.

The referendum. Electors equal to five per cent of the total vote cast for governor at the last preceding election, by petition filed within ninety days after the adjournment of the legislature, may require any act of the legislature (except those calling elections, providing for tax levies and urgency measures declared therein to be such, and passed by a two- thirds vote of both houses) to be submitted to the people for their approval or rejection at the next general election, or a special election to be called by the governor at his discretion; thus giving to the people the power to arrest, and prevent the taking effect, of vicious or objectionable acts of the legislature.

*Advantages of the **initiative**.* The legislators knowing that people can ultimately express their will in law, without the aid of the legislature, will actively endeavor to ascertain the will of the majority of the people, rather than of some faction, and to do that will. It will give men who think differently on general party affair, but who agree upon a particular measure, the chance to vote upon such measure. It will enable electors to vote for a measure although it be opposed by their candidate, and at the same time for such candidate if they believe him to be right upon other issues. Each measure will be considered more upon its own merits by the legislature, it knowing that unless such measure merits approval it can be held up by the electorate.

Advantages of the referendum. It will be unsafe and profitless for legislators to bargain with private interests, or to violate the people's rights; because the people have the power of ratification or rejection. It will prove a safeguard against the "silent scheming of the crafty few," and at the same time serve as a safeguard against the enactment of laws noisily demanded by a mere faction. It will be effective against mob rule (the violent few) and against machine rule (the wire-pulling few). Honest business will not have to bribe a legislature to get a square deal. Dishonest business will not be able to "influence" a legislature and get more than a square deal, for the final decision

will be in the hands of the people. Washington's words of wisdom still hold true, "The people will always be nearer right than those who have a selfish interest in controlling them." In the last analysis the thing upon which we may finally depend, under our form of government, is the judgment of the people. These amendments are not opposed to our form of government, not opposed to the ideals of the fathers of the republic, and are not contrary to the spirit fo our institutions. Exactly the opposite is true. The town meeting of New England trained our fathers in the principles of self-government. From that training sprang full fledged the idea of self-government. That self-government is the spirit and essence of our institutions and the basis of all our law in state and nation. The people realized that they were, and have made themselves the source and foundation of power. They created our form of government. They created our constitutions. They are the creators of legislatures. They are the employers, and they must be clothed with the power to issue commands, to exact obedience and to negative and nullify the acts of their agents and servant, if the violate the wish or the will of their employers or the spirit of their employment.

*The **initiative** and referendum not new.* The **initiative** and referendum are not untried experiments. Switzerland, admittedly one of the best, if not the best governed country of the world, has had it for nearly fifty years. At least eight states of our own country, beginning in 1902, have made the **initiative** and referendum an integral part of their framework of government. In California many cities have already adopted it. Los Angeles has had it since 1903. San Francisco and Oakland incorporated it into their charters last year. Berkeley and San Diego and other cities had done so prior to that time, while counties and cities of the fifth and sixth classes were given such powers by the legislature at its last session. The procedure for amending our state constitution by submitting the same to a vote of the people is one of the oldest and highest forms of the referendum.

Its opponents. One of the strongest arguments in its favor is the character of many of those who oppose it. Opposing it will be found without exception the servants of special interests, and those who profit through special legislation. Added to these are those who may be termed our "Political Aristocrats," who distrust and scoff at the people; who are accustomed to sneer at self-government as "The rule of the Mob," or "the Tyranny or Majorities."

Objections. Objection has been made that these powers would deprive the legislature of its functions. To refute this it is but necessary to remark that at the recent session of the legislature 2,877 bills were introducted, that 956 of these passed both houses, and that 753 became laws. How utterly absurd, therefore, to think that the activity of the legislature thus evidenced could be duplicated by the people in their collective capacity.

It is not intended and will not be a substitute for legislation, but will constitute that safeguard which the people should retain for themselves, to supplement the work of the legislature by initiating those measures which the legislature either viciously or negligently fails or refuses to enact; and to hold the legislature in check, and veto or negative such measures as it may viciously or negligently enact. All objections finally and ultimately center in a distrust of democracy; in a challenge of the power of the people to govern themselves. The voters are to decide by the adoption, or rejection, of this amendment to the constitution, as to whether self-government is a success or

failure; as to whether people believe in themselves. It is the step which brings legislation to the threshold of the individual and clothes him with the power to secure good laws by control over legislators and legislatures.

Are the people capable of self-government? If they are, this amendment should be adopted. If they are not, this amendment should be defeated.

FOR(au) LEE C. GATES, |t Senator, 34th District.

FOR(au) WM. C. CLARK, |t Assemblyman, 50th District.

Against

REASONS WHY SENATE CONSTITUTIONAL AMENDMENT NO. 22 SHOULD NOT BE ADOPTED.

The "proposed **initiative** and referendum" amendment is, perhaps, the most important one submitted to the vote of the people by the last legislature. It should have the most earnest consideration of every voter, for it is so radical as to be almost revolutionary in its character. Its tendency is to change the republican form of our government and head it towards democracy, and history teaches that democracies have universally ended in turbulence and disaster.

The question for the voter to determine is whether legislation should be accomplished by means of representative chosen by the people or by the people themselves. As our commercial and economic relations grow more complex, beneficial legislation becomes a more difficult problem. It may be easy to determine what the effect of a given law will be upon a certain trade of a particular community, but its ramifications often extend beyond the vision of the wisest. Well-meaning laws not infrequently bring about results not contemplated. Thus, section 4 of article XIII of the state constitution of 1879 provided for the assessment of mortgages, trust deeds, etc. The avowed purpose was to make the lender pay the mortgage tax.

Section 5 of the same article of the constitution made every contract by which a debtor was obliged to pay the tax null and void. The practical working of these provisions is well known to every borrower. Whatever the prevailing rate of interest the lender invariably demanded an additional three or four per cent to cover the tax. For years it was realized that this constitutional provision was working a hardship upon the borrowing public which always greatly outnumbers the loaning public. Several attempts were made by the legislature to submit an amendment repealing this provision of the constitution. In 1907 such an amendment was submitted to the people and defeated at the polls by an overwhelming majority. In 1909 the repeal of this amendment was again submitted and carried in the November election of 1910. It was only after years of agitation, however, that this constitutional blunder was wiped out.

California has the referendum on all constitutional amendments. A study of the vote on constitutional amendments which have been submitted to the people is not reassuring to advocates of the **initiative** and referendum. At the last general election twelve amendments were submitted to the voters of this state, and while 385,613 votes were cast for governor at that election, the average vote for constitutional amendments was about 189,000. In round numbers, 200,000 voters in this state expressed a choice for governor, but did not have sufficient conviction on the merits of the constitutional amendments to warrant them in voting for or against these proposed organic laws. More than one half of the qualified voters of the state refrained from voting upon these

constitutional amendments, and they were adopted or rejected by less than 50 per cent of the electors qualified to vote. It is conservative to say that 95 per cent of those who voted on the proposed amendments made no original research on the questions involved. In cities and towns it was the general rule for the voter to ask some one whom he supposed to be better informed than himself to mark a sample ballot on the amendments submitted.

The writer knows one lawyer who marked as many as fifty sample ballots, and, in this instance, one person practically voted fifty times on each constitutional amendment. The **initiative** and referendum, therefore, do not express the conviction and judgment of a majority of the voters.

I suggest to each voter the serious consideration of the following propositions before reaching a final conclusion as to the merits or demerits of the **initiative** and referendum amendment:

(a) The right of our courts to pass upon the constitutionality of all statutes is firmly established by necessary inference from language employed in the federal constitution, and by the decisions of Chief Justice Marshall. Section 2 of article I of the state constitution provides that all political power is inherent in the people. If, in the exercise of their power, they reserve to themselves the right to pass laws the statutes so passed will possess the same force and have the same dignity as the constitution itself. The right to determine the constitutionality of a legislative act or statute is vested in the courts, and is one of the safeguards enjoined by the minority against the tyranny of the majority. It is doubtful if a statute enacted by the people, in whom all political power is vested, could be declared null and void as being in conflict with any provision of the state constitution. Thus, the safeguard enjoyed by the minority would, so far as the **initiative** and referendum statutes are concerned, be wiped out.

(b) As our economic and commercial relations grow more complex, beneficial legislation becomes more difficult. This is an era of experts and specialist in almost every avocation of life. The times demand fewer, more thoroughly considered, and more carefully prepared laws. No law should be enacted without a systematic study of its necessity, and the injury it may inflict as well as the evil it is intended to correct. The people at large have no the inclination or time to enter upon and complete such an investigation. Every honest voter must admit this is the uncontrovertible fact. Neither the professional man, the merchant, the trader, the artisan, nor the laborer has the time to devote to the study of these questions such as is necessary to become thoroughly informed.

(c) Any ill-considered law is dangerous to the public good. A vote cast by an elector who has not made a careful and thorough study of the law upon which he votes is an ignorant vote with as fair a chance of being wrong as right. Making laws in this manner may be fairly likened to requiring a jury to return a verdict without hearing all the evidence, or the court rendering a decree upon a hearsay statement of the law and the fact. No sane man would be willing to submit his personal or property rights to such an adjudication, and it is just as hazardous to submit the making of laws which affect the property and personal rights of all to so ill-advised a determination.

(d) Would it not be saner and safer to require of the legislature a more careful

consideration of all proposed laws rather than provide a new method for law-making which will bring forth a class of statutes largely the product of the public whim? Is it not reasonable to suppose that preconceived notions, demagoguery, and prejudice will largely enter into the making fo laws by means of the **initiative** and referendum system?

(e) The present constitutional amendment provides that a law may be submitted to the people within ninety days of a general election. Certainly, the voter will not have the opportunity of research necessary to enable him to form a mature judgment upon statutes thus submitted. His opinions must necessarily be formed from hearsay statements, vociferous mouthing of demagogues, colored and selfish statements of representatives of corporate interests and the half-baked opinions of sensational newspapers.

(f) The cry that those opposed to the **initiative** and referendum do not trust the people is largely a declaration of demagogues. The judgment of the people is almost invariably right, but a hasty conclusion of the people is as often wrong. The elector, before he determines to vote for the **initiative** and referendum, should glance over his past life and recall how often he has been led to an erroneous conclusion in public and private matters by the mistaken statements of the well-meaning persons. In political matters eternal vigilance is required to avoid being led into error by designing persons as well as by those who profess to know when they do not.

(g) Every law before being enacted should be submitted to some forum in which it is subject to deliberation and amendment. Under the proposed **initiative** and referendum no amendment is possible, even though a law should be proposed containing a provision which is palpably unjust and vicious.

(h) The voter can much more readily and discriminately select honest representatives to make the laws than he can determine what laws are hones and beneficial to the whole commonwealth.

(i) The **initiative** and referendum are yet in the experimental stages. It takes many years, and often many decades, to determine whether an organic law is wise or unwise. The constitutionality of the **initiative** and referendum has not yet been adjudged or its wisdom established.

The supreme court of the United States may yet hold that this amendment is in conflict with that provision of the federal constitution which guarantees to each state a republican form of government. California might do well to watch and wait while Oregon, Oklahoma, and other states are experimenting with this radical departure form the government established by our fathers.

(j) The voter should remember that though the **initiative** and referendum may work satisfactorily in small communities, or in cities where the population is compact, it does not necessarily follow that it will be a success when applied to a commonwealth in which the interests are as varied and the population as large and the needs of the people as multifarious as they are in California.

Finally, inasmuch as the electors within the last few years have experienced a

newly awakened interest in selecting their representative in all matters of public trust, and inasmuch as direct primary law has brought it within their power to absolutely select officers of their own choosing, is it not wiser to leave further experimentation alone until the results in those states which have adopted the **initiative** and referendum can be carefully studied?

Against(au) LEROY A. WRIGHT, Senator, 40th District.

Text of Prop. The legislature of the State of California, at its regular session commencing on the second day of January, 1911, two thirds of all the members elected to each of the two houses of said legislature voting in favor thereof, hereby proposes that section 1 of article IV of the constitution of the State of California, be amended so as to read as follows:

Section 1. The legislative power of this state shall be vested in a senate and assembly which shall be designated "The legislature of the State of California," but the people reserve to themselves the power to propose laws and amendments to the constitution, and to adopt or reject the same, at the polls independent of the legislature, and also reserve the power, at their own option, to so adopt or reject any act, or section or part of any act, passed by the legislature. The enacting clause of every law shall be "The people of the State of California do enact as follows:".

The first power reserved to the people shall be known as the initiative. Upon the presentation to the secretary of state of a petition certified as herein provided to have been signed by qualified electors, equal in number to eight per cent of all the votes cast for all candidates for governor at the last preceding general election, at which a governor was elected, proposing a law or amendment to the constitution, set forth in full in said petition, the secretary of state shall submit the said proposed law or amendment to the constitution to the electors at the next succeeding general election occurring subsequent to ninety days after the presentation aforesaid of said petition, or at any special election called by the governor in his discretion prior to such general election. All such initiative petitions shall have printed across the top thereof in twelve point black-face type the following: "Initiative measure to be submitted directly to the electors."

Upon the presentation to the secretary of state, at any time not less than ten days before the commencement of any regular session of the legislature, of a petition certified as herein provided to have been signed by qualified electors of the state equal in number to five per cent of all the votes cast for all candidates for governor at the last preceding general election, at which a governor was elected, proposing a law set forth in full in said petition, the secretary of state shall transmit the same to the legislature, within forty days from the time the legislature it shall be subject to referendum, as hereinafter provided. If any law so petitioned for be rejected, or if no action taken upon it by the legislature within said forty days, the secretary of state shall submit it to the people for approval or rejection at the next ensuing general election. The legislature may reject any measure so proposed by initiative petition and propose a different one on the same subject by a yea and nay vote upon separate roll call, and in such event both measures shall be submitted by the secretary of state to the electors for approval or rejection at the next ensuing general election or at a prior special election called by the governor, in his discretion, for such purpose. All said initiative petitions last above described shall have printed in twelve point black-face type the following: "Initiative

measure to be presented to the legislature."

The second power reserved to the people shall be known as the referendum. No act passed by the legislature shall go into effect until ninety days after the final adjournment of the session of the legislature which passed such act, except acts calling elections, acts providing for tax levies or appropriations for the usual current expenses of the state, and urgency measures necessary for the immediate preservation of the public peace, health or safety, passed by a two-thirds vote of all the members elected to each house. Whenever it is deemed necessary for the immediate preservation of the public peace, health or safety that a law shall go into immediate effect, a statement of the facts constituting such necessity shall be set forth in one section of the act, which section shall be passed only upon a yea and nay vote, upon a separate roll call thereon; provided, however, that no measure creating or abolishing any office or changing the salary, term or duties of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be construed to be an urgency measure. Any law so passed by the legislature and declared to be an urgency measure shall go into immediate effect.

Upon the presentation to the secretary of state within ninety days after the final adjournment of the legislature of a petition certified as herein provided, to have been signed by qualified electors equal in number to five per cent of all the votes cast for all candidates for governor at the last preceding general election at which a governor was elected, asking that any act or section or part of any act of the legislature, be submitted to the electors for their approval or rejection, the secretary of state shall submit to the electors for their approval or rejection, such act, or section or part of such act, at the next succeeding general election occurring at any time subsequent to thirty days after the filing of said petition or at any special election which may be called by the governor, in his discretion, prior to such regular election, and no such act or section or part of such act shall go into effect until and unless approved by a majority of the qualified electors voting thereon; but if a referendum petition is filed against any section or part of any act the remainder of such act shall not be delayed from going into effect.

Any act, law or amendment to the constitution submitted to the people by either initiative or referendum petition and approved by a majority of the votes case thereon, at any election, shall take effect five days after the date fo the official declaration of the vote by the secretary of state. No act, law or amendment to the constitution, initiated or adopted by the people, shall be subject to the veto power fo the governor, and no act, law or amendment to the constitution, initiated or adopted by the people at the polls under the initiative provisions of this section, shall be amended or repealed except by a vote of the electors, unless otherwise provided in said initiative measure; but acts and laws adopted by the people under the referendum provisions of this section may be amended by the legislature at any subsequent session thereof. If any provision or provisions of two or more measures, approved by the electors at the same election, conflict, the provision or provisions of the measure receiving the highest affirmative vote shall prevail. Until otherwise provided by law, all measures submitted to a vote of the electors, under the provisions of this section, shall be printed, and together with arguments for and against each such measure by the proponents and opponents thereof, shall be mailed to each elector in the same manner as now provided by law as to

amendments to the constitution, proposed by the legislature; and the persons to prepare and present such argument shall, until otherwise provided by law, be selected by the presiding officer of the senate.

If for any reason any initiative or referendum measure, proposed by petition as herein provided, be not submitted at the election specified in this section, such failure shall not prevent its submission at a succeeding general election, and no law or amendment to the constitution, proposed by the legislature, shall be submitted at any election unless at the same election there shall be submitted all measures proposed by petition of the electors, if any be so proposed, as herein provided.

Any initiative or referendum petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure. Each signer shall add to his signature his place of residence, giving the street and number if such exist. His election precinct shall also appear on the paper after his name. The number of signatures attached to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the state shall be competent to solicit said signatures within the county or city and county of which he is an elector. Each section of the petition shall bear the name of the county or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating his own qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be, and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer oaths. Such petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing the same are qualified electors. Unless and until it be otherwise proven upon official investigation. It shall be presumed that the petition presented contains the signatures of the requisite number of qualified electors.

Each section of the petition shall be filed with the clerk or registrar of voters of the county or city and county in which it was circulated, but all said sections circulated in any county or city and county shall be filed at the same time. Within twenty days after the filling of such petition in this office the said clerk, or registrar of voters, shall determine from the records of registration what number of qualified electors have signed the same, and if necessary the board fo supervisors shall allow said clerk or registrar additional assistants for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to said petition, except the signatures thereto appended, his certificate, properly dated, showing the result of said examination and shall forthwith transmit said petition, together with his said certificate, to the secretary of state and also file a copy of said certificate in his office. Within forty days from the transmission of said petition and certificate by the clerk or registrar to the secretary of state, a supplemental petition identical with the original as to the body fo the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid. The clerk or registrar of voters shall within ten days after the filing of

such supplemental petition make like examination thereof, as the original petition, and upon the completion of such examination shall forthwith attach to said petition his certificate, properly dated, showing the result of said examination, and shall forthwith transmit a copy of said supplemental petition, except the signatures thereto appended, together with his certificate, to the secretary of state.

When the secretary of state shall have received from one or more county clerks or registrars of voters a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the state his certificate showing such fact. A petition shall be deemed to be filed with the secretary of state upon the date of the receipt by him of a certificate or certificates showing said petition to be signed by the requisite number of electors of the state. Any county clerk or registrar of voters shall, upon receipt of such copy, file the same for record in his office. The duties herein imposed upon the clerk or registrar of voters shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

The initiative and referendum powers of the people are hereby further reserved to the electors of each county, city and county, city and town of the state, to be exercised under such procedure as may be provided by law. Until otherwise provided by law, the legislative body of any such county, city and county, city or town may provide for the manner of exercising the initiative and referendum powers herein rese[rved] to such counties, cities and counties, cities and towns, and shall not require more than fifteen per cent of the electors thereof to propose any initiative measure nor more than ten per cent of the electors thereof to order the referendum. Nothing contained in this section shall be construed as affecting or limiting the present or future powers of cities or cities and counties having charters adopted under the provisions of section eight or article eleven of this constitution. In the submission to the electors of any measure under this section, all officers shall be guided by the general laws of this state, except as is herein otherwise provided. This section is self- executing, but legislation may b enacted to facilitate its operation, but in no way limiting or restricting either the provisions of this section or the powers herein reserved.

Section 1 of article IV, proposed to be amended as above, now reads as follows:

SECTION 1. The legislative power of this state shall be vested in a senate and assembly, which shall be designated The legislature of the State of California, and the enacting clause of every law shall be as follows: "The People fo the State of California, represented in senate and assembly, do enact as follows."

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "6"

Proposed

AMENDMENTS TO CONSTITUTION

PROPOSITIONS AND PROPOSED LAWS

Together With Arguments

To Be Submitted to the Electors
of the State of California at the

GENERAL ELECTION
TUESDAY, NOV. 6, 1962

Compiled by A. C. MORRISON, Legislative Counsel
Distributed by FRANK M. JORDAN, Secretary of State

the preparation, issuance and sale of state ıds. Such measures would be required to be ımitted to the voters as statutes.

This measure would also require all state bond issues to be passed by the Legislature by a ⅔ vote, instead of only those bond issues to be submitted to the voters at a primary election.

A "Yes" vote on this measure would make the State Constitution more easily applicable to modern use without removing any of the legal safeguards contained in the State Constitution.

JOHN A. BUSTERUD
Member of Assembly,
California Legislature
WILLIAM T. BAGLEY
Assemblyman, Sonoma-Marin Counties

Argument Against Proposition No. 6

This proposal to chop away a substantial part of our Constitution is a grossly inadequate substitute for the overall revision that is being called for by our most responsible citizens. The Constitution is our state's most vital, fundamental document. It was carefully drafted by our forefathers and the numerous additions made over the years were the result of profound study and careful selection by an informed electorate. Improvement should be thoughtfully planned by a Constitutional Convention and should not take this form of a ruthless tearing out of pages.

The right of Californians to vote for vital bond issues will be abridged by this proposal: whereas a simple majority vote of the Legislature is now sufficient to place a bond issue before the citizenry at a general election, this proposal would require a two-thirds vote of each house. This would give the foes of improved schools, veterans' home loans and better parks and highways the opportunity to thwart bond issues by garnering a mere 34 percent of the votes of the Legislature.

JACK E. GABRIEL
Certified Public Accountant
San Francisco

CONSTITUTION REVISION. Assembly Constitutional Amendment No. 14. Empowers Legislature to propose a revision of the Constitution to be voted on by the people. Provides that revision if approved by majority of electors voting shall be the Constitution or part of the Constitution if the revision revises only a part of the Constitution.

7

YES	
NO	

For Full Text of Measure, See Page 13, Part II

Analysis by the Legislative Counsel

'his measure would amend Section 1 of Arti-.e XVIII of the Constitution. It would authorize the Legislature by a vote of two-thirds of the members elected to each house to propose complete or partial "revisions" of the Constitution for approval or rejection by the people. Under existing provisions the Legislature can only propose "amendments," that is measures which propose changes specific and limited in nature. "Revisions," i.e., proposals which involve broad changes in all or a substantial part of the Constitution, can presently be proposed only by convening a constitutional convention.

Argument in Favor of Proposition No. 7

This measure would permit the Legislature to propose and submit to the people a revision of all or part of the State Constitution.

While the California Constitution as construed by our courts permits the Legislature to propose specific amendments to the California Constitution for approval by the people, it does not permit the Legislature to submit to a vote of the people a revision of the entire Constitution or amendments that are broad enough to revise a substantial part of it. This can be done only by means of a constitutional convention. Such a convention may be convened if the Legislature proposes it and the voters approve. The Legislature is then required to provide the necessary machinery for election and convening. The convention ..t meet and draft a revised Constitution, which must be approved or rejected by the voters. California has not had a convention since our present Constitution was approved in 1879.

To allow the Legislature to propose a complete revision, or broad change in one or more entire areas, would not violate any principles of our democratic process. A ⅔ vote of each house of the Legislature would be necessary before such revisions could be submitted to the electorate and the revision or revisions would be adopted only after approval by the voters.

Most state legislatures are free to propose to the people extensive and significant constitutional changes, whether drawn up by an expert commission or a legislative committee. In the past decade alone ten states, among them New York, Pennsylvania and Texas, have approached constitutional improvement by this method. Short of a constitutional convention, California has no way to make coordinated broad changes to renovate outdated sections and articles in its Constitution.

A yes vote will allow an alternative approach to necessary revisions in the California Constitution.

JOHN A. BUSTERUD
Member of Assembly
California Legislature
MAX EDDY UTT
Chairman, Citizens Legislative
Advisory Commission
LEAGUE OF WOMEN VOTERS
OF CALIFORNIA
MRS. LAUFFER T. HAYES
President

~~fore such board concerning this section or any or section of the Constitution or legislative authorizing the allocation of funds to school districts for purposes the same or substantially the same as those enumerated in this section.~~

~~The Legislature shall require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (a) of this section to repay such money to the State on such terms and in such amounts as may be within the ability of the district to repay.~~

~~The Legislature may require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (b) of this section to repay such money to the State on such terms and in such amounts as the Legislature deems proper.~~

~~The people of the State of California in adopting this section hereby declare that it is in the interests of the State and of the people thereof for the State to aid school districts of the State in providing necessary school sites and buildings for the pupils of the public school system, such system being a matter of general concern inasmuch as the education of the children of the State is an obligation and function of the State.~~

~~SEC. 21. The issuance and sale of bonds of the State of California, not exceeding in the aggregate the sum of four hundred million dollars ($400,000,000), and the use and disposition of the proceeds of the sale of said bonds, all as provided in the Veterans Bond Act of 1960 (Article 5h of Chapter 6 of Division 4 of the Military and Veterans Code) authorizing the issuance and sale of state bonds in the sum of four hundred million dollars ($400,000,000) for the purpose of providing a fund to be used and disbursed to provide farm and home aid for veterans in accordance with the provisions of the Veterans Farm and Home Purchase Act of 1943, and all acts amendatory and supplemental thereto are hereby authorized and directed and said Veterans Bond Act of 1960 is hereby approved, adopted, legalized, ratified, validated, and made fully and completely effective upon the effective date of this amendment to the Constitution. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section.~~

CONSTITUTION REVISION. Assembly Constitutional Amendment No. 14. Empowers Legislature to propose a revision of the Constitution to be voted on by the people. Provides that revision if approved by majority of electors voting shall be the Constitution or part of the Constitution if the revision revises only a part of the Constitution.

7

YES	
NO	

(This proposed amendment expressly amends an existing section of the Constitution; therefore **EXISTING PROVISIONS** proposed to be **DELETED** are printed in ~~STRIKEOUT TYPE~~, and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE.**)

PROPOSED AMENDMENT TO ARTICLE XVIII

SECTION 1. Any amendment or amendments to, **or revision of,** this Constitution may be proposed in the Senate or Assembly, and if two-thirds of all the members elected to each of the two houses shall vote in favor thereof, such proposed amendment, ~~or~~ amendments, **or revision** shall be entered in their Journals, with the yeas and nays taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment, ~~or~~ amendments, **or revision** to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, **or such revision,** by a majority of the qualified electors voting thereon such amendment or amendments shall become a part of this Constitution:, **and such revision shall be the Constitution of the State of California or shall become a part of the Constitution if the measure revises only a part of the Constitution.**

GENERAL LEGISLATIVE SESSIONS. Assembly Constitutional Amendment No. 21. Permits legislative bills to be heard by committees 20 rather than 30 days after introduction at a general session. Allows Legislature to take a recess not to exceed 10 calendar days, which shall not be counted in computing duration of general session.

8

YES	
NO	

(This proposed amendment expressly amends an existing section of the Constitution; therefore **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BLACK-FACED TYPE.**)

PROPOSED AMENDMENT TO ARTICLE IV

First—That the fifth paragraph of subdivision (a) of Section 2 of Article IV is amended to read:

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "7"

Proposed

AMENDMENTS TO CONSTITUTION

PROPOSITIONS AND PROPOSED LAWS

Together With Arguments

To Be Submitted to the Electors
of the State of California at the

GENERAL ELECTION
TUESDAY, NOV. 8, 1966

Compiled by GEORGE H. MURPHY, Legislative Counsel
Distributed by FRANK M. JORDAN, Secretary of State

PART I—ARGUMENTS

1-a	**CONSTITUTIONAL REVISION.** Legislative Constitutional Amendment. Repeals, amends, and revises various provisions of Constitution relating to separation of powers, and to the legislative, executive, and judicial departments; provides for annual general legislative sessions; provides compensation of members of Legislature shall be prescribed by statute passed by two-thirds vote, and limits rate of annual future adjustments; Legislature must enact laws prohibiting members from engaging in conflicting activities. Signatures necessary on petition for initiative statute reduced from 8% to 5%; eliminates initiatives to Legislature. Legislature shall provide for succession to the office of Governor in event of disability or vacancy.	YES	
		NO	

(For Full Text of Measure, See Page 1, Part II)

General Analysis by the Legislative Counsel *

A "Yes" vote on the measure is a vote to revise portions of the California Constitution dealing with the separation of powers and with the legislative, executive, and judicial departments of state government.

A "No" vote is a vote to reject this revision.

For further details see below.

Detailed Analysis by the Legislative Counsel *

This measure would revise portions of the State Constitution dealing with the separation of powers and with the legislative, executive, and judicial departments of state government. Some provisions, mainly procedural, would be transferred to statutes enacted at the 1966 First Extraordinary Session. The major changes made by the measure include the following:

Legislative

The Legislature now meets in general session, at which all subjects can be considered, in odd-numbered years. It meets in budget sessions, at which only fiscal matters may be considered, in even-numbered years. Both sessions are of limited duration. Under this measure the Legislature would meet in annual general sessions, unlimited as to duration and unlimited as to subjects that could be considered.

Salaries and the expenses of legislators would be set by statute passed by a two-thirds vote in each house, rather than by the Constitution, provided: (a) beginning in 1967, an increase in salary could not exceed 5 percent for each year following the last adjustment; and (b) an increase could not apply until the commencement of the regular session following the next general election after enactment of the increase. Any increase in the legislator's salary over the present $500 per month could not be used in computing the retirement allowance of a member unless he receives the greater amount while serving as a Member of the Legislature.

The Legislature would be required to enact conflict of interest legislation applicable to legislators. Impeachment proceedings would be extended to cover additional elective officers of the state.

* Section 3566 of the Elections Code requires the Legislative Counsel to prepare an impartial analysis of measures appearing on the ballot.

The number of signatures needed for an initiative petition for enactment of a statute would be reduced from 8 to 5 percent of the votes cast at the last election for Governor; however, the signature requirement for an initiative constitutional amendment would remain unchanged. Provisions for the submission of initiative petitions to the Legislature would be eliminated.

Executive

The age requirement for the office of Governor would be lowered to 21 years. The measure would make various technical changes in the pardoning and clemency powers of the Governor. Provisions setting minimums for statutory salaries of certain elective state officers would be deleted. Provision would be made for determining questions of succession to the governorship and temporary disability of Governor. The Legislature could authorize certain executive reorganizations.

Judiciary

When authorized by law a judge would be permitted, on agreement of the counties, to serve the superior courts of two or more counties. The experience required for judges of superior and higher courts would be increased. The Legislature could provide that the names of unopposed incumbent judges need not be placed on the ballot for any trial court in the state, rather than only for superior courts in counties of 700,000 population or more. The automatic suspension of judges charged with a felony or recommended for removal by qualifications commission would be required. A superior or municipal court judge would be required to take a leave of absence without pay when seeking other public office.

Argument in Favor of Proposition No. 1-a

We support the proposed revision of the State Constitution and urge all Californians to vote YES on Proposition 1-a.

EDMUND G. "PAT" BROWN
Governor of the State
of California

RONALD REAGAN

RICHARD J. DONOVAN
Judge, Municipal Court
San Diego Judicial District
(Former Member of the Assembly,
77th District)

Argument in Favor of Proposition No. 1-a

One of our most crucial needs in these times is effective government—based on a modern Constitution.

Yet, concerning the California Constitution, former State Supreme Court Justice Phil S. Gibson has stated:

"(Our Constitution is) . . . cumbersome, unelastic, and outmoded . . . It is not only much too long, but it is almost everything a Constitution ought not to be."

California's Constitution is hardly modern. It is the third longest Constitution in the world and has been amended over 300 times since 1879. In short, it is a mess.

In 1962, by more than a 2 to 1 vote, the people mandated modernization of their Constitution. As a result, a blue-ribbon Constitution Revision Commission of 69 leading Californians was appointed to recommend a revised Constitution. These prominent citizens from all walks of life worked without pay for three years and spent thousands of hours at their task.

The result is Proposition 1-a. It is the first phase of the Commission's work. It covers approximately one-third of the existing Constitution, and reduces that one-third from 22,000 to 6,000 words.

The reforms in Proposition 1-a have been labeled by party leaders and non-partisan groups alike as essential to the effective operation of government.

Proposition 1-a puts the Constitution into modern, concise and easily understandable language.

The changes in the legislative, executive and judicial articles would include machinery, with adequate safeguards, to remove a Governor from office if he is proven unable to carry on his duties; judges would be under stronger disciplinary procedures and the practice of running for political office while still a judge would be curtailed; and the Legislature would meet annually to consider all problems confronting California.

In keeping with increased time demands on the Legislature Proposition 1-a removes salary provisions frozen in the Constitution and ratifies a new compensation plan with careful controls and strict regulations regarding the outside activities and income of legislators.

The fundamental weapons available to California's citizens to combat abuses by their governmental officials—the initiative, the referendum and the recall—have been carefully preserved.

State government today faces new challenges and new responsibilities not dreamed of in 1879. This new Constitution helps to meet those challenges by making government itself more flexible and able to do the job which our citizens have a right to expect.

If states are to survive and prosper in our system, they need the tools of effective government—Proposition 1-a is a giant step toward that goal. California can lead the way. Vote YES on 1-a.

LUTHER E. GIBSON
State Senator, Solano County

BRUCE W. SUMNER
Chairman, Calif. Constitution
Revision Commission
Judge, Superior Court, Orange Co.

THOMAS L. PITTS
(Exec. Sec'y. Calif. Labor
Fed. AFL-CIO)
Member Calif. Constitution
Revision Commission

Argument Against Proposition No. 1-a

As the only person who cast a negative vote in the Assembly on the Constitutional Revision program, under California law I am designated to submit the negative argument on Proposition 1-a. At the time the vote was taken in the Assembly, I was not opposed to this proposition in its entirety; rather, I found fault with a few of its provisions which placed unrealistic restrictions on the legislature. It would be unfair to those persons who are vigorously opposed to this program for broad and fundamental philosophical beliefs if I were to submit an argument which would express, as is the case, only minor reservations about this program of reform. Because of these considerations, I have delegated my responsibility for the negative argument to Senator John G. Schmitz (R—Orange County) whose statement follows:

"This Constitutional Amendment, if passed, would mark a significant departure from our traditional system of citizen legislators to fully paid, full time legislators.

"The passing of laws in a free country ought not to be a fulltime profession for anyone. When it becomes so, the country permitting it will not long remain truly free.

"We certainly need legal professionals in our courts, at the bar and on the bench. We certainly need police professionals to enforce the law and protect the innocent. We may or may not need professional bureaucrats in other branches of government. But we do not need professional legislators.

"The men who founded our American system of government assigned the law-making responsibility to elected legislatures which were much closer to the people than either the executive or the judiciary. The executive and the judiciary were in the hands of professionals. The legislature was the people's check on the appetite of government professionals for more and ever more power and money.

"PRESCRIBING LAWS WHICH OTHER PEOPLE ARE TO BE FORCED TO OBEY CAN NEVER BE A PRIMARY OCCUPATION FOR ANY MAN WHO LOVES LIBERTY."

LEO J. RYAN
Assemblyman, San Mateo County

PART II—APPENDIX

1-a **CONSTITUTIONAL REVISION. Legislative Constitutional Amendment.** Repeals, amends, and revises various provisions of Constitution relating to separation of powers, and to the legislative, executive, and judicial departments; provides for annual general legislative sessions; provides compensation of members of Legislature shall be prescribed by statute passed by two-thirds vote, and limits rate of annual future adjustments; Legislature must enact laws prohibiting members from engaging in conflicting activities. Signatures necessary on petition for initiative statute reduced from 8% to 5%; eliminates initiatives to Legislature. Legislature shall provide for succession to the office of Governor in event of disability or vacancy.

YES	
NO	

(This amendment proposed by Assembly Constitutional Amendment No. 13, 1966 First Extraordinary Session, expressly amends existing sections of the Constitution, amends and renumbers existing sections thereof, repeals existing sections and existing articles thereof, and adds new sections and new articles thereto; therefore **EXISTING PROVISIONS** proposed to be **DELETED** or **REPEALED** are printed in ~~STRIKEOUT TYPE~~; and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BLACK-FACED TYPE.**)

PROPOSED AMENDMENTS TO ARTICLES III, IV, V, VI, VII, VIII, XIII, XXII

First, that Article III of the Constitution of the State is repealed.

~~ARTICLE III~~

~~DISTRIBUTION OF POWERS~~

~~SECTION 1. The powers of the government of the State of California shall be divided into three separate departments—the legislative, executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except as in this Constitution expressly directed or permitted.~~

Second, That Article III is added, to read:

ARTICLE III
SEPARATION OF POWERS

The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

Second and One-half, That the heading of Article IV is amended to read:

LEGISLATIVE ~~DEPARTMENT~~

Third, That Section 1 of Article IV is repealed.

~~SECTION 1. The legislative power of this State shall be vested in a Senate and Assembly which shall be designated "The Legislature of the State of California," but the people reserve to themselves the power to propose laws and amendments to the Constitution, and to adopt or reject the same, at the polls independent of the Legislature, and also reserve the power, at their own option, to so adopt or reject any act, or section or part of any act, passed by the Legislature. The enacting clause of every law shall be "The people of the State of California do enact as follows:".~~

~~The first power reserved to the people shall be known as the initiative. Upon the presentation to the Secretary of State of a petition certified as herein provided to have been signed by qualified electors, equal in number to eight per cent of all the votes cast for all candidates for Governor at the last preceding general election, at which a Governor was elected, proposing a law or amendment to the Constitution, set forth in full in said petition, the Secretary of State shall submit the said proposed law or amendment to the Constitution to the electors at the next succeeding general election occurring subsequent to 130 days after the presentation aforesaid of said petition, or at any special election called by the Governor in his discretion prior to such general election. All such initiative petitions shall have printed across the top thereof in twelve-point black-face type the following: "Initiative measure to be submitted directly to the electors."~~

~~Upon the presentation to the Secretary of State, at any time not less than ten days before the commencement of any regular session of the Legislature, of a petition certified as herein provided to have been signed by qualified electors of the State equal in number to five per cent of all votes cast for all candidates for Governor at the last preceding general election, at which a Governor was elected, proposing a law set forth in full in said petition, the Secretary of State shall transmit the same to the Legislature as soon as it convenes and organizes. The law proposed by such petition shall be either enacted or rejected without change or amendment by the Legislature, within forty days from the time it is received by the Legislature. If any law proposed by such petition shall be enacted by the Legislature it shall be subject to referendum, as hereinafter provided. If any law so petitioned for be rejected, or if no action is taken upon it by the Legislature, within said forty days, the Secretary of State shall submit it to the people for approval or rejection at the next ensuing general election. The legislature may reject any measure so proposed by initiative petition and propose a different one on the same subject by a yea and nay vote upon separate roll call, and in such event both measures shall be submitted by the Secretary of State to the electors for approval or rejection at the next ensuing general election or at a prior special election called by the Governor, in his discretion, for such purpose. All said initiative petitions last above described shall have printed in twelve-point black-face type the following: "Initiative measure to be presented to the Legislature."~~

The second power reserved to the people shall be known as the referendum. No act passed by the Legislature shall go into effect until ninety days after the final adjournment of the session of the Legislature which passed such act, except acts calling elections, acts providing for tax levies or appropriations for the usual current expenses of the State, and urgency measures necessary for the immediate preservation of the public peace, health or safety, passed by a two-thirds vote of all the members elected to each House. Whenever it is deemed necessary for the immediate preservation of the public peace, health or safety that a law shall go into immediate effect, a statement of the facts constituting such necessity shall be set forth in one section of the act, which section shall be passed only upon a yea and nay vote, upon a separate roll call thereon; *provided, however*, that no measure creating or abolishing any office or changing the salary, term or duties of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be construed to be an urgency measure. Any law so passed by the Legislature and declared to be an urgency measure shall go into immediate effect.

Upon the presentation to the Secretary of State within ninety days after the final adjournment of the Legislature of a petition certified as herein provided, to have been signed by qualified electors equal in number to five per cent of all the votes cast for all candidates for Governor at the last preceding general election at which a Governor was elected, asking that any act or section or part of any act of the Legislature be submitted to the electors for their approval or rejection, the Secretary of State shall submit to the electors for their approval or rejection, such act, or section or part of such act, at the next succeeding general election occurring at any time subsequent to thirty days after the filing of said petition or at any special election which may be called by the Governor, in his discretion, prior to such regular election, and no such act or section or part of such act shall go into effect until and unless approved by a majority of the qualified electors voting thereon; but if a referendum petition is filed against any section or part of any act the remainder of such act shall not be delayed from going into effect.

Any act, law or amendment to the Constitution submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon, at any election, shall take effect five days after the date of the official declaration of the vote by the Secretary of State. No act, law or amendment to the Constitution, initiated or adopted by the people, shall be subject to the veto power of the Governor, and no act, law or amendment to the Constitution, adopted by the people at the polls under the initiative provisions of this section, shall be amended or repealed except by a vote of the electors, unless otherwise provided in said initiative measure, but acts and laws adopted by the people under the referendum provisions of this section may be amended by the Legislature at any subsequent session thereof. If any provision or provisions of two or more measures, approved by the electors at the same election, conflict, the provision or provisions of the measure receiving the highest affirmative vote shall prevail. Until otherwise provided by law, all measures submitted to a vote of the electors, under the provisions of this section, shall be printed, and together with arguments for and against each such measure by those in favor of, and those opposed to, it shall be mailed to each elector in the same manner as now provided by law as to amendments to the Constitution, proposed by the Legislature; and the persons to prepare and present such arguments shall, until otherwise provided by law, be selected by the presiding officer of the Senate.

If for any reason any initiative or referendum measure, proposed by petition as herein provided, be not submitted at the election specified in this section, such failure shall not prevent its submission at a succeeding general election, and no law or amendment to the Constitution, proposed by the Legislature, shall be submitted at any election unless at the same election there shall be submitted all measures proposed by petition of the electors, if any be so proposed, as herein provided.

Prior to circulation of any initiative or referendum petition for signatures thereof, a draft of the said petition shall be submitted to the Attorney General with a written request that he prepare a title, and summary of the chief purpose and points of said proposed measure, said title and summary not to exceed one hundred words in all. The persons presenting such request to the Attorney General shall be known as "proponents" of said proposed measure. The Attorney General shall preserve said written request until after the next general election.

Any initiative or referendum petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure. Each signer shall add to his signature his place of residence, giving the street and number if such exist. His election precinct shall also appear on the paper after his name. The number of signatures attached to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the State shall be competent to solicit said signatures within the county or city and county of which he is an elector. Each section of the petition shall bear the name of the county or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating his own qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be, and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer oaths. Such petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing the same are qualified electors. Unless and until it be otherwise proved upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified electors.

~~Each section of the petition shall be filed with the clerk or registrar of voters of the county or city and county in which it was circulated, but all said sections circulated in any county or city and county shall be filed at the same time. Within twenty days after the filing of such petition in his office the said clerk, or registrar of voters, shall determine from the records of registration what number of qualified electors have signed the same, and if necessary the board of supervisors shall allow said clerk or registrar additional assistance for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to said petition, except the signatures thereto appended, his certificate, properly dated, showing the result of said examination and shall forthwith transmit said petition, together with his said certificate, to the Secretary of State and also file a copy of said certificate in his office. Within forty days from the transmission of the said petition and certificate by the clerk or registrar to the Secretary of State, a supplemental petition identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid.~~

~~The right to file the original petition shall be reserved to its proponents, as defined herein and any section thereof or supplement thereto presented for filing by any person or persons other than the proponents of a measure or by persons duly authorized in writing by such proponents all be disregarded by the county clerk or registrar of voters.~~

~~The clerk or registrar of voters shall within ten days after the filing of such supplemental petition make like examination thereof, as of the original petition, and upon the completion of such examination shall forthwith attach to said petition his certificate, properly dated, showing the result of said examination, and shall forthwith transmit a copy of said supplemental petition, except the signatures thereto appended, together with his certificate, to the Secretary of State.~~

~~When the Secretary of State shall have received from one or more county clerks or registrars of voters a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the State his certificate showing such fact. A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by him of a certificate or certificates showing said petition to be signed by the requisite number of electors of the State. Any county clerk or registrar of voters shall, upon receipt of such copy, file the same for record in his office. The duties herein imposed upon the clerk or registrar of voters shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.~~

~~The initiative and referendum powers of the people are hereby further reserved to the electors of each county, city and county, city and town of the State to be exercised under such procedure as may be provided by law. Until otherwise provided by law, the legislative body of any such county, city and county, city or town may provide for the manner of exercising the initiative and referendum powers herein reserved to such counties, cities and counties, cities and towns, but shall not require more than fifteen per cent of the electors thereof to propose any initiative measure nor more than ten per cent of the electors thereof to order the referendum. Nothing contained in this section shall be construed as affecting or limiting the present or future powers of cities or cities and counties having charters adopted under the provisions of Section 8 of Article XI of this Constitution. In the submission to the electors of any measure under this section, all officers shall be guided by the general laws of this State, except as is herein otherwise provided. This section is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting either the provisions of this section or the powers herein reserved.~~

Fourth, That Section 1a of Article IV is amended and renumbered to be Section 20 of Article XIII, to read:

~~SEC. 1a~~ Sec. 20. Notwithstanding any limitations or restrictions in this Constitution contained, every ~~State~~ state office, department, institution, board, commission, bureau, or other agency of the State, whether created by initiative law or otherwise, shall be subject to the regulations and requirements with respect to the filing of claims with the State Controller and the submission, approval and enforcement of budgets prescribed by law.

Fifth, That Section 1b of Article IV is repealed.

~~SEC. 1b. Laws may be enacted by the legislature to amend or repeal any act adopted by vote of the people under the initiative, to become effective only when submitted to and approved by the electors unless the initiative act affected permits the amendment or the repeal without such approval. The Legislature shall by law prescribe the method and manner of submitting such a proposal to the electors.~~

Sixth, That Section 1c of Article IV is repealed.

~~SEC. 1c. Every constitutional amendment or statute proposed by the initiative shall relate to but one subject. No such amendment or statute shall hereafter be submitted to the electors if it embraces more than one subject, nor shall any such amendment or statute embracing more than one subject, hereafter submitted to or approved by the electors, become effective for any purpose.~~

Seventh, That Section 1d of Article IV is repealed.

~~SEC. 1d. (a) No amendment to the Constitution and no law or amendment thereto whether proposed by the initiative or by the Legislature which names any individual or individuals by name or names to hold any office or offices shall hereafter be submitted to the electors, nor shall any such amendment to the Constitution, law, or amendment thereto hereafter submitted to or approved by the electors become effective for any purpose.~~

~~(b) No amendment to the Constitution, whether proposed by the initiative or by the Legislature, which names any private corporation, or more than one such corporation, by name or names, to perform any function or have any power or duty,~~

shall be submitted to the electors, nor shall any such amendment to the Constitution, submitted to or approved by the electors at the 1961 general election or any election thereafter become effective for any purpose.

Eighth, That Section 2 of Article IV is repealed.

SEC. 2. (a) The sessions of the Legislature shall be annual, but the Governor may, at any time, convene the Legislature, by proclamation, in extraordinary session.

All regular sessions in odd-numbered years shall be known as general sessions and no general session shall exceed 120 calendar days in duration, not including Saturdays or Sundays.

All regular sessions in even-numbered years shall be known as budget sessions, at which the Legislature shall consider only the Budget Bill for the succeeding fiscal year, revenue acts necessary therefor, the approval or rejection of charters and charter amendments of cities, counties, and cities and counties, and acts necessary to provide for the expenses of the session.

All general sessions shall commence at 12 o'clock m., on the first Monday after the first day of January.

At the general session, no bill, other than the Budget Bill, shall be heard by any committee or acted upon by either house until 30 calendar days have elapsed following the date the bill was first introduced; provided, that this provision may be dispensed with by the consent of three-fourths of the members of the house.

(b) Each Member of the Legislature shall receive for his services the sum of five hundred dollars ($500) for each month of the term for which he is elected.

No Member of the Legislature shall be reimbursed for his expenses, except for expenses incurred (1) while attending a regular, special or extraordinary session of the Legislature (the expense allowances for which may equal but not exceed the expense allowances at the time authorized for other elected state officers), not exceeding the duration of any general session or of any budget session or the duration of a special or extraordinary session or (2) while serving after the Legislature has adjourned or during any recess of the two houses of the Legislature as a member of a joint committee of the two houses or of a committee of either house, when the committee is constituted and acting as an investigating committee to ascertain facts and make recommendations, not exceeding, during any calendar year, 40 days as a member of one or more committees of either house, or 60 days as a member of one or more joint committees, but not exceeding 60 days in the aggregate for all such committee work. The limitations in this subsection (b) are not applicable to mileage allowances.

(c) Notwithstanding any provisions in subdivision (a) of this section of this article to the contrary, all budget sessions shall commence at 12 m. on the first Monday in February and no budget session shall exceed 30 calendar days in duration exclusive of the recess authorized to be taken by this subdivision. After the introduction of the Budget Bill at a budget session a recess of both houses may be taken for a period not to exceed 30 calendar days. Members of the committees to which the Budget Bill is assigned for consideration during such recess shall be reimbursed for their expenses incurred for days while serving as members of such committees during the recess, in addition to the days allowed by subdivision (b) of this section.

Ninth, That Section 3 of Article IV is repealed.

SEC. 3. Members of the Assembly shall be elected biennially, and their term of office shall be two years. Each election shall be on the first Tuesday after the first Monday in November, unless otherwise ordered by the Legislature.

Tenth, That Section 4 of Article IV is repealed.

SEC. 4. Senators shall be chosen for the term of four years, at the same time and places as members of the Assembly, and no person shall be a member of the Senate or Assembly who has not been a citizen and inhabitant of the State three years, and of the district for which he shall be chosen one year, next before his election.

Eleventh, That Section 5 of Article IV is repealed.

SEC. 5. The Senate shall consist of 40 members, and the Assembly of 80 members, to be elected by districts, numbered as hereinafter provided. One-half of the Senators shall be elected every two years, those from the odd-numbered districts being elected when the number of the year is divisible by four.

Twelfth, That Section 7 of Article IV is repealed.

SEC. 7. Each House shall choose its officers, and judge of the qualifications, elections, and returns of its members.

Thirteenth, That Section 8 of Article IV is repealed.

SEC. 8. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as each House may provide.

Fourteenth, That Section 9 of Article IV is repealed.

SEC. 9. Each House shall determine the rule of its proceedings, and may, with the concurrence of two-thirds of all members elected, expel a member.

Fifteenth, That Section 10 of Article IV is repealed.

SEC. 10. Each House shall keep a Journal of its proceedings, and publish the same, and the yeas and nays of the members of either House, on any question, shall, at the desire of any three members present, be entered on the Journal.

Sixteenth, That Section 11 of Article IV is repealed.

SEC. 11. Members of the Legislature shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

Seventeenth, That Section 12 of Article IV is repealed.

SEC. 12. When vacancies occur in either House the Governor, or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

Eighteenth, That Section 13 of Article IV is repealed.

~~Sec. 13. The doors of each House shall be open, except on such occasions as, in the opinion of the House, may require secrecy.~~

Nineteenth, That Section 14 of Article IV is repealed.

~~Sec. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which they may be sitting.~~

Twentieth, That Section 15 of Article IV is repealed.

~~Sec. 15. No law shall be passed except by bill. Nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same be read on three several days in each House, unless, in case of urgency, two-thirds of the House where such bill may be pending, shall, by a vote of yeas and nays, dispense with this provision. Any bill may originate in either House, but may be amended or rejected by the other; and on the final passage of all bills they shall be read at length, and the vote shall be by yeas and nays upon each bill separately, and shall be entered on the Journal; and no bill shall become a law without the concurrence of a majority of the members elected to each House.~~

Twenty-first, That Section 16 of Article IV is repealed.

~~Sec. 16. Every bill which may have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, which shall enter such objections upon the journal and proceed to reconsider it. If after such reconsideration, it again pass both houses, by yeas and nays, two-thirds of the members elected to each House voting therefor, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the Legislature, by adjournment, prevents such return, in which case it shall not become a law, unless the Governor, within thirty days after such adjournment (Sundays excepted), shall sign and deposit the same in the office of the Secretary of State, in which case it shall become a law in like manner as if it had been signed by him before adjournment. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more items, while approving other portions of the bill. In such case he shall append to the bill at the time of signing it, a statement of the items to which he objects, and the reasons therefor, and the appropriation so objected to shall not take effect unless passed over the Governor's veto, as hereinbefore provided. If the Legislature be in session, the Governor shall transmit to the House in which the bill originated a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disproved by the Governor.~~

Twenty-second, That Section 17 of Article IV is repealed.

~~Sec. 17. The Assembly shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members elected.~~

Twenty-third, That Section 18 of Article IV is repealed.

~~Sec. 18. The Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Chief Justice and Associate Justices of the Supreme Court, judges of the district court of appeal, and judges of the superior courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the Legislature may provide.~~

Twenty-fourth, That Section 19 of Article IV is repealed.

~~Sec. 19. No Senator or member of Assembly shall, during the term for which he shall have been elected, hold or accept any office, trust, or employment under this State; *provided*, that this provision shall not apply to any office filled by election by the people.~~

Twenty-fifth, That Section 20 of Article IV is repealed.

~~Sec. 20. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State; provided, that local officers or postmasters whose compensation does not exceed five hundred dollars ($500) per annum, or officers in the militia or members of any reserve component of the armed forces of the United States except where on active federal duty for more than 30 days in any year, shall not be deemed to hold lucrative offices; provided further, that the holding of any civil office of profit under this State shall not be affected or suspended by such military service as above described.~~

Twenty-sixth, That Section 21 of Article IV is repealed.

~~Sec. 21. No person convicted of the embezzlement or defalcation of the public funds of the United States, or of any State, or of any county or municipality therein, shall ever be eligible to any office of honor, trust, or profit under this State, and the Legislature shall provide, by law, for the punishment of embezzlement or defalcation as a felony.~~

Twenty-seventh, That Section 22 of Article IV is amended and renumbered to be Section 21 of Article XIII, to read:

~~Sec. 22.~~ **Sec. 21.** No money shall be drawn from the Treasury but in consequence of appropriation made by law, and upon warrants duly drawn thereon by the Controller.~~; and no~~ **No** money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state in-

stitution, nor shall any grant or donation of property ever be made thereto by the State, except that notwithstanding anything contained in this or any other section of the Constitution:

(1) Whenever federal funds are made available for the construction of hospital facilities by public agencies and nonprofit corporations organized to construct and maintain such facilities, nothing in this Constitution shall prevent the Legislature from making state money available for that purpose, or from authorizing the use of such money for the construction of hospital facilities by nonprofit corporations organized to construct and maintain such facilities.

(2) The Legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or ~~in~~ is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions.

(3) The Legislature shall have the power to grant aid to needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, and no person concerned with the administration of aid to needy blind persons shall dictate how any applicant or recipient shall expend such aid granted him, and all money paid to a recipient of such aid shall be intended to help him meet his individual needs and is not for the benefit of any other person, and such aid when granted shall not be construed as income to any person other than the blind recipient of such aid, and the State Department of Social Welfare shall take all necessary action to enforce the provisions relating to aid to needy blind persons as heretofore stated.

(4) The Legislature shall have power to grant aid to needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State.

(5) The State shall have at any time the right to inquire into the management of such institutions.

(6) Whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances, or needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, or needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control.

An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature.

Twenty-eighth, That Section 22a of Article IV is repealed.

~~SEC. 22a. The Legislature shall have power to provide for the payment of retirement salaries to employees of the State who shall qualify therefor by service in the work of the State as provided by law. The Legislature shall have power to fix and from time to time change the requirements and conditions for retirement which shall include a minimum period of service, a minimum attained age and minimum contribution of funds by such employees and such other conditions as the Legislature may prescribe, subject to the power of the Legislature to prescribe lesser requirements for retirement because of disability.~~

~~The rates of contribution and the periods and conditions of service and amount of retirement salaries fixed in pursuance of this section shall not be changed except by the vote of two-thirds of the members elected to each of the two Houses of the Legislature.~~

Twenty-ninth, That Section 23 of Article IV is repealed.

~~SEC. 23. The Members of the Legislature shall receive mileage to be fixed by law and paid out of the State Treasury, such mileage not to exceed five cents ($0.05) per mile.~~

Thirtieth, That Section 23a of Article IV is repealed.

~~SEC. 23a. The Legislature shall provide for the selection of all officers, employees and attaches of both houses.~~

Thirtieth and one-half, That Section 23b of Article IV is repealed.

~~SEC. 23b. Members of the Legislature shall receive no compensation for their services other than that fixed by the Constitution but each member shall be allowed and reimbursed expenses necessarily incurred by him while attending regular, special and extraordinary sessions of the Legislature. The amount of the expense necessarily incurred by the respective members, while attending any such sessions, shall be determined and payment thereof provided for by joint rules of the Senate and Assembly. Such expense allowances may equal but shall not exceed the expense allowances now authorized for other elected State officers.~~

Thirty-first, That Section 24 of Article IV is repealed.

~~SEC. 24. Every Act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an Act which shall not be expressed in its title, such Act shall be void only as to so much thereof as shall not be expressed in its title. No law shall be revised or amended by reference to its title; but in such case the Act revised or section amended shall be enacted and published at length as revised amended; and all laws of the State of California,~~

and all official writings, and the executive, legislative, and judicial proceedings shall be conducted, preserved, and published in no other than the English language.

Thirty-second, That Section 25 of Article IV is repealed.

Sec. 25. The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

First—Regulating the jurisdiction and duties of Justices of the Peace, Police Judges, and of Constables.

Second—For the punishment of crimes and misdemeanors.

Third—Regulating the practice of Courts of justice.

Fourth—Providing for changing the venue in civil or criminal actions.

Fifth—Granting divorces.

Sixth—Changing the names of persons or places.

Seventh—Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, graveyards, or public grounds not owned by the State.

Eighth—Summoning and impaneling grand and petit juries, and providing for their compensation.

Ninth—Regulating county and township business, or the election of county and township officers.

Tenth—For the assessment or collection of taxes.

Eleventh—Providing for conducting elections, or designating the places of voting, except on the organization of new counties.

Twelfth—Affecting estates of deceased persons, minors, or other persons under legal disabilities.

Thirteenth—Extending the time for the collection of taxes.

Fourteenth—Giving effect to invalid deeds, wills, or other instruments.

Fifteenth—Refunding money paid into the State treasury.

Sixteenth—Releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or person to this State, or to any municipal corporation therein.

Seventeenth—Declaring any person of age, or authorizing any minor to sell, lease, or encumber his or her property.

Eighteenth—Legalizing, except as against the State, the unauthorized or invalid act of any officer.

Nineteenth—Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity.

Twentieth—Exempting property from taxation.

Twenty-first—Changing county seats.

Twenty-second—Restoring to citizenship persons convicted of infamous crimes.

Twenty-third—Regulating the rate of interest on money.

Twenty-fourth—Authorizing the creation, extension, or impairing of liens.

Twenty-fifth—Chartering or licensing ferries, bridges, or roads.

Twenty-sixth—Remitting fines, penalties, or forfeitures.

Twenty-seventh—Providing for the management of common schools.

Twenty-eighth—Creating offices, or prescribing the powers and duties of officers in counties, cities, cities and counties, townships, election or school districts.

Twenty-ninth—Affecting the fees or salary of any officer.

Thirtieth—Changing the law of descent or succession.

Thirty-first—Authorizing the adoption or legitimation of children.

Thirty-second—For limitation of civil or criminal actions.

Thirty-third—In all other cases where a general law can be made applicable.

Thirty-third, That Section 25a of Article IV is repealed.

Sec. 25a. The Legislature may provide for the regulation of horseraces and horserace meetings and wagering on the results thereof.

Thirty-fourth, That Section 25½ of Article IV is repealed.

Sec. 25½. The Legislature may provide for the division of the State into fish and game districts and may enact such laws for the protection of fish and game in such districts or parts thereof as it may deem appropriate.

There shall be a Fish and Game Commission of five members appointed by the Governor, subject to confirmation by the Senate, with a term of office of six years and until their respective successors are appointed and qualified, except that the terms of the members first appointed shall expire as follows: One member, January 15, 1913; one member, January 15, 1914; one member, January 15, 1915; one member, January 15, 1916; and one member, January 15, 1917. Each subsequent appointment shall be for six years, or, in case of a vacancy, then for the unexpired portion of such term. The Legislature may delegate to the commission such powers relating to the protection, propagation and preservation of fish and game as the Legislature sees fit. Any member of the commission may be removed by concurrent resolution of the Legislature passed by the vote of a majority of the members elected to each of the two houses thereof.

Thirty-fifth, That Section 25¾ of Article IV is amended and renumbered to be Section 22 of Article XIII, to read:

Sec. 25¾. **Sec. 22.** All money collected under the provision of any law of this State relating to the protection, conservation, propagation, or preservation of fish, game, mollusks, or crustaceans and all fines and forfeitures imposed by any court for the violation of any such law shall be used and expended exclusively for the protection, conservation, propagation, and preservation of fish, game, mollusks, or crustaceans and for the administration and enforcement of laws relating thereto. The Legislature may provide for the division of money derived from such fines and forfeitures.

Thirty-sixth, That Section 25.7 of Article IV is repealed.

Sec. 25.7. The Legislature may amend, revise, or supplement any part of that certain initiative act approved by the electors November 4, 1924, which is set forth in the Statutes of 1925, preceding page 1.

The Legislature shall, however, have no power to prohibit wrestling and 12-round boxing contests in the State of California.

Thirty-seventh, That Section 26 of Article IV is repealed.

~~SEC. 26. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets or tickets in any scheme in the nature of a lottery. The Legislature shall pass laws to prohibit the fictitious buying and selling of the shares of the capital stock of corporations in any stock board, stock exchange or stock market under the control of any corporation or association. All contracts for the purchase or sale of shares of the capital stock of any corporation or association without any intention on the part of one party to deliver and of the other party to receive the shares, and contemplating merely the payment of differences between the contract and market prices on divers days, shall be void, and neither party to any such contract shall be entitled to recover any damages for failure to perform the same, or any money paid thereon, in any court of this State.~~

Thirty-eighth, That Section 28 of Article IV is repealed.

~~SEC. 28. In all elections by the Legislature the members thereof shall vote viva voce, and the votes shall be entered on the Journal.~~

Thirty-ninth, That Section 29 of Article IV is amended and renumbered to be Section 23 of Article XIII, to read:

~~SEC. 29.~~ **SEC. 23.** The Legislature may provide that any money belonging to the State in the control of any State agency or department or collected under the authority of this State from any source whatever other than money in the control of or collected by ~~The~~ the Regents of ~~the~~ The University of California shall be held in trust by the State Treasurer prior to its deposit in the State ~~treasury~~ Treasury by the State agency or department as may be required by law. Any money held in trust may be disbursed by the State Treasurer upon the order of the State agency or department in the manner permitted by law and money held in trust may be deposited in banks to the same extent that money in the State ~~treasury~~ Treasury may be deposited in banks.

Fortieth, That Section 30 of Article IV is amended and renumbered to be Section 24 of Article XIII, to read:

~~SEC. 30.~~ **SEC. 24.** Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the ~~State~~ state, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 22 21 of this article.

Forty-first, That Section 31 of Article IV is amended and renumbered to be Section 25 of Article XIII, to read:

~~SEC. 31.~~ **SEC. 25.** The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 22 21 of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; *provided, further*, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; *provided, further*, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and

Provided, further, that nothing contained in this Constitution shall prohibit the use of State money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation.

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and it shall be his duty to make such temporary transfers from the funds in his custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in his custody and are paid out solely through his office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political

subdivision shall not exceed ~~eighty-five percent~~ 85 ~~per~~ cent of the taxes accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the taxes accruing to such political subdivision before any other obligation of such political subdivision is met from such taxes.

Forty-second, That Section 31a of Article IV is amended and renumbered to be Section 26 of Article XIII, to read:

~~Sec. 31a.~~ **Sec. 26.** No provision of this Constitution shall be construed as a limitation upon the power of the Legislature to provide by general law, from public moneys or funds, for the indemnification of the owners of live stock taken, slaughtered or otherwise disposed of pursuant to law to prevent the spread of a contagious or infectious disease; *provided*, the amount paid in any case for such animal or animals shall not exceed the value of such animal or animals.

Forty-third, That Section 31b of Article IV is amended and renumbered to be Section 27 of Article XIII, to read:

~~Sec. 31b.~~ **Sec. 27.** No provision of this Constitution shall be construed as a limitation upon the power of the Legislature to provide that the lien of every tax, whether heretofore or hereafter attaching, shall cease to exist for all purposes after ~~thirty~~ 30 years from the time such tax became a lien, or to provide that every tax whether heretofore or hereafter levied shall be conclusively presumed to have been paid after thirty ~~(30)~~ years from the time the same became a lien unless property subject thereto has been sold in the manner provided by law for the payment of said tax.

Forty-fourth, That Section 31c of Article IV is amended and renumbered to be Section 28 of Article XIII, to read:

~~Sec. 31c.~~ **Sec. 28.** No provision of this Constitution shall be construed as a limitation upon the power of the Legislature to provide by general law for the refunding, repayment or adjustment, from public funds raised or appropriated by the United States, the State or any city, city and county, or county for street and highway improvement purposes, of assessments or bonds, or any portion thereof, which have become a lien upon real property, and which were levied or issued to pay the cost of street or highway improvements or of opening and widening proceedings which may be or may have become of more than local benefit. Any such acts of the Legislature heretofore adopted are hereby confirmed and declared valid and shall have the same force and effect as if adopted after the effective date of this amendment.

Forty-fifth, That Section 32 of Article IV is repealed.

~~Sec. 32. The Legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed, in whole or part, nor to pay, or to authorize the payment of, any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.~~

Forty-sixth, That Section 33 of Article IV is repealed.

~~Sec. 33. The Legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use, and where laws shall provide for the selection of any person or officer to regulate and limit such rates, no such person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation.~~

Forty-seventh, That Section 34 of Article IV is repealed.

~~Sec. 34. The Governor shall, at each regular session of the Legislature, submit to the Legislature, with an explanatory message, a budget containing a complete plan and itemized statement of all proposed expenditures of the State provided by existing law or recommended by him, and of all its institutions, departments, boards, bureaus, commissions, officers, employees and other agencies, and of all estimated revenues, for the ensuing fiscal year, together with a comparison, as to each item of revenues and expenditures, with the actual revenues and expenditures for the last completed fiscal year and the actual and estimated expenditures for the existing fiscal year. If the proposed expenditures for the ensuing fiscal year shall exceed the estimated revenues therefor, the Governor shall recommend the sources from which the additional revenue shall be provided.~~

~~The Governor shall submit the budget within the first 30 days of each general session, and prior to its recess, and within the first three days of each budget session.~~

~~The Governor, and also the Governor-elect, shall have the power to require any institution, department, board, bureau, commission, officer, employee or other agency to furnish him with any information which he may deem necessary in connection with the budget or to assist him in its preparation.~~

~~The budget shall be accompanied by an appropriation bill covering the proposed expenditures, to be known as the Budget Bill. The Budget Bill shall be introduced immediately into each house of the Legislature by the respective chairmen of the committees having to do with appropriations, and shall be subject to all the provisions of Section 15 of this article. The Governor may at any time amend or supplement the budget and propose amendments to the Budget Bill before or after its enactment, and each such amendment shall be referred in each house to the committee to which the Budget Bill was originally referred. Until the Budget Bill has been finally enacted, neither house shall place upon final passage any other appropriation bill, except emergency bills recommended by the Governor, or appropriations for the salaries, mileage and expenses of the Senate and Assembly.~~

~~No bill making an appropriation of money, except the Budget Bill, shall contain more than one~~

~~item of appropriation, and that for one single and certain purpose to be therein expressed.~~

~~In any appropriation bill passed by the Legislature, the Governor may reduce or eliminate any one or more items of appropriation of money while approving other portions of the bill, whereupon the effect of such action and the further procedure shall be as provided in Section 16 of this article.~~

~~In case of conflict between this section and any other portion of this Constitution, the provisions of this section shall govern, except that any item of appropriation in the Budget Act, other than for the usual current expenses of the State, shall be subject to the referendum.~~

~~The Legislature shall enact all laws necessary or desirable to carry out the purposes of this section, and may enact additional provisions not inconsistent herewith.~~

Forty-eighth, That Section 34a of Article IV is repealed.

~~SEC. 34a. Appropriations from the General Fund of the State for any fiscal year, exclusive of appropriations for the support of the public school system, shall be void unless two-thirds of all the members elected to each house of the Legislature vote in favor thereof.~~

~~Not more than 25 per centum of the total appropriations from all funds of the State shall be raised by means of taxes on real and personal property according to the value thereof.~~

Forty-ninth, That Section 35 of Article IV is repealed.

~~SEC. 35. Any person who seeks to influence the vote of a Member of the Legislature by bribery, promise of reward, intimidation, or any other dishonest means, shall be guilty of a felony, and it shall be the duty of the Legislature to provide, by law, for the punishment of this crime. Any Member of the Legislature, who shall be influenced in his vote or action upon any matter pending before the Legislature by any reward, or promise of future reward, shall be deemed guilty of a felony, and upon conviction thereof, in addition to such punishment as may be provided by law, shall be disfranchised and forever disqualified from holding any office or public trust. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or with having been influenced in his vote or action, as a Member of the Legislature, by reward, or promise of future reward, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy, but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.~~

Fiftieth, That Section 36 of Article IV is repealed.

~~SEC. 36. The Legislature shall have power to establish a system of State highways or to declare any road a State highway, and to pass all laws necessary or proper to construct and maintain the same, and to extend aid for the construction and maintenance in whole or in part of any county highway.~~

Fifty-first, That Section 37 of Article IV is repealed.

~~SEC. 37. In order to expedite the work of the Legislature, either house of the Legislature may by resolution provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control, and joint committees for such purposes, consisting of members of both houses, may be created by concurrent resolutions.~~

~~The resolution creating any such committee may authorize it to act either during sessions of the Legislature or after final adjournment. Any such committee shall have such powers and perform such duties as may be provided by the resolution creating it and in addition shall have such powers and perform such duties as may be provided by law or by the rules of the Legislature or either house thereof.~~

~~Members of such committees shall not receive any additional compensation for their services other than their salaries as members of the Legislature, but each house of the Legislature may provide for the payment of the expenses necessarily incurred by any such committee or the members thereof either from its contingent fund or from any money provided by law for that purpose.~~

Fifty-second, That Section 38 of Article IV is repealed.

~~SEC. 38. Nothing in this Constitution shall limit the power of the Legislature to provide by law at any time for:~~

~~(a) The filling of the offices of members of either house of the Legislature and Governor when the incumbent Governor or at least one-fifth of the incumbent members of either house of the Legislature as a result of a war or enemy-caused disaster occurring in the State of California be either killed, missing or so seriously injured as to be unable to perform their duties until said incumbent or incumbents are able to perform their duties or until successors are chosen.~~

~~(b) The convening of the Legislature into general or extraordinary session during or after a war or enemy-caused disaster occurring in this State, and to specify subjects that may be considered and acted upon at any such extraordinary session. At any such general session the Legislature may consider and act upon any subject within the scope of legislative regulation and control. Nothing in this Constitution limiting the length of general or budget sessions, or requiring a recess thereof, or restricting the introduction of bills shall apply to general sessions convened pursuant to this section.~~

~~(c) The calling and holding of elections to fill offices that are elective under this Constitution and which, as a result of a war or enemy-caused disaster occurring in this State, are either vacant or are being filled by persons not elected thereto.~~

~~(d) The selection and changing from time to time of a temporary seat of government of this State, and of temporary county seats, to be used, if made necessary by enemy attack.~~

Fifty-third, That Section 1 is added to Article IV, to read:

Sec. 1. The legislative power of this S[illegible] vested in the California Legislature which c[illegible] of the Senate and Assembly, but the people re-

serve to themselves the powers of initiative and r ndum.

(y-fourth, That Section 2 is added to Article IV, to read:

Sec. 2. (a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. The Assembly has a membership of 80 Assemblymen elected for 2-year terms.

(b) Election of Assemblymen shall be on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as Assemblymen.

(c) A person is ineligible to be a member of the Legislature unless he is an elector and has been a resident of his district for one year, and a citizen of the United States and a resident of California for 3 years, immediately preceding his election.

(d) When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy.

Fifty-fifth, That Section 3 is added to Article IV, to read:

Sec. 3. (a) The Legislature shall meet annually in regular session at noon on the Monday after January 1. A measure introduced at any session may not be deemed pending before the Legislature at any other session.

(b) On extraordinary occasions the Governor by proclamation may convene the Legislature in special session. When so convened it has power to l ate only on subjects specified in the procla- n but may provide for expenses and other matters incidental to the session.

Fifty-sixth, That Section 4 is added to Article IV, to read:

Sec. 4. Compensation of members of the Legislature, and reimbursement for travel and living expenses in connection with their official duties, shall be prescribed by statute passed by rollcall vote entered in the journal, two thirds of the membership of each house concurring. Commencing with 1967, in any statute enacted making an adjustment of the annual compensation of a member of the Legislature, the adjustment may not exceed an amount equal to 5 percent for each calendar year following the operative date of the last adjustment, of the salary in effect when the statute is enacted. Any adjustment in the compensation may not apply until the commencement of the regular session commencing after the next general election following enactment of the statute.

The Legislature may not provide retirement benefits based on any portion of a monthly salary in excess of 500 dollars paid to any member of the Legislature unless the member receives the greater amount while serving as a member in the Legislature. The Legislature may, prior to their retirement, limit the retirement benefits payable to members of the Legislature who serve during or after the term commencing in 1967.

When computing the retirement allowance of a member who serves in the Legislature during the t commencing in 1967 or later, allowance may b de for increases in cost of living if so provided by statute, but only with respect to increases in the cost of living occurring after retirement of the member, except that the Legislature may provide that no member shall be deprived of a cost of living adjustment based on a monthly salary of 500 dollars which has accrued prior to the commencement of the 1967 Regular Session of the Legislature.

Fifty-seventh, That Section 5 is added to Article IV, to read:

Sec. 5. Each house shall judge the qualifications and elections of its members and, by rollcall vote entered in the journal, two thirds of the membership concurring, may expel a member.

The Legislature shall enact laws to prohibit members of the Legislature from engaging in activities or having interests which conflict with the proper discharge of their duties and responsibilities; provided that the people reserve to themselves the power to implement this requirement pursuant to Section 22 of this article.

Fifty-eighth, That Section 7 is added to Article IV, to read:

Sec. 7. (a) Each house shall choose its officers and adopt rules for its proceedings. A majority of the membership constitutes a quorum, but a smaller number may recess from day to day and compel the attendance of absent members.

(b) Each house shall keep and publish a journal of its proceedings. The rollcall vote of the members on a question shall be taken and entered in the journal at the request of 3 members present.

(c) The proceedings of each house shall be public except on occasions that in the opinion of the house require secrecy.

(d) Neither house without the consent of the other may recess for more than 3 days or to any other place.

Fifty-ninth, That Section 8 is added to Article IV, to read:

Sec. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.

(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring. No bill may be passed until the bill with amendments has been printed and distributed to the members. No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

(c) No statute may go into effect until the 91st day after adjournment of the session at which the bill was passed, except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes.

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the

bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest.

Sixtieth, That Section 9 is added to Article IV, to read:

Sec. 9. A statute shall embrace but one subject, which shall be expressed in its title. If a statute embraces a subject not expressed in its title, only the part not expressed is void. A statute may not be amended by reference to its title. A section of a statute may not be amended unless the section is re-enacted as amended.

Sixty-first, That Section 10 is added to Article IV, to read:

Sec. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if he signs it. He may veto it by returning it with his objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two thirds of the membership concurring, it becomes a statute. A bill presented to the Governor that is not returned within 12 days, becomes a statute unless the Legislature by adjournment of the session prevents the return. It does not then become a statute unless the Governor signs the bill and deposits it in the office of the Secretary of State within 35 days after adjournment.

(b) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. He shall append to the bill a statement of the items reduced or eliminated with the reasons for his action. If the Legislature is in session, the Governor shall transmit to the house originating the bill a copy of his statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

Sixty-second, That Section 11 is added to Article IV, to read:

Sec. 11. The Legislature or either house may by resolution provide for the selection of committees necessary for the conduct of its business, including committees to ascertain facts and make recommendations to the Legislature on a subject within the scope of legislative control. Committees may be authorized to act during sessions or after adjournment of a session.

Sixty-third, That Section 12 is added to Article IV, to read:

Sec. 12. (a) Within the first 30 days of each regular session, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements of recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, he shall recommend the sources from which the additional revenues should be provided.

(b) The Governor and the Governor-elect may require a state agency, officer or employee to furnish him whatever information he deems necessary to prepare the budget.

(c) The budget shall be accompanied by a budget bill itemizing recommended expendi[illegible] The bill shall be introduced immediately in [illegible] house by the chairmen of the committees that consider appropriations. Until the budget bill has been enacted, neither house may pass any other appropriation bill, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the general fund of the State, except appropriations for the public schools, are void unless passed in each house by rollcall vote entered in the journal, two thirds of the membership concurring.

Sixty-fourth, That Section 13 is added to Article IV, to read:

Sec. 13. A member of the Legislature may not, during the term for which he is elected, hold any office or employment under the State other than an elective office.

Sixty-fifth, That Section 14 is added to Article IV, to read:

Sec. 14. A member of the Legislature is not subject to civil process during a session of the Legislature or for 5 days before and after a session.

Sixty-sixth, That Section 15 is added to Article IV, to read:

Sec. 15. A person who seeks to influence the vote or action of a member of the Legislature in his legislative capacity by bribery, promi[illegible] reward, intimidation, or other dishonest mea[illegible] a member of the Legislature so influenced, is guilty of a felony.

Sixty-seventh, That Section 16 is added to Article IV, to read:

Sec. 16. A local or special statute is invalid in any case if a general statute can be made applicable.

Sixty-eighth, That Section 17 is added to Article IV, to read:

Sec. 17. The Legislature has no power to grant, or to authorize a city, county, or other public body to grant, extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or to authorize the payment of a claim against the State or a city, county, or other public body under an agreement made without authority of law.

Sixty-ninth, That Section 18 is added to Article IV, to read:

Sec. 18. (a) The Assembly has the sole power of impeachment. Impeachments shall be tried by the Senate. A person may not be convicted unless, by rollcall vote entered in the journal, two thirds of the membership of the Senate concurs.

(b) State officers elected on a statewide basis, members of the State Board of Equalization, and judges of state courts are subject to impeachment for misconduct in office. Judgment may extend only to removal from office and disqualification to hold any office under the State, b[illegible] s person convicted or acquitted remains subj[illegible] o criminal punishment according to law.

Seventieth, That Section 19 is added to Article IV, to read:

Sec. 19. (a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

Seventy-first, That Section 20 is added to Article IV, to read:

Sec. 20. (a) The Legislature may provide for division of the State into fish and game districts and may protect fish and game in districts or parts of districts.

(b) There is a Fish and Game Commission of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 6-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. The Legislature may delegate to the commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. A member of the commission may be removed by concurrent resolution adopted by each house, a majority of the membership concurring.

Seventy-second, That Section 21 is added to Article IV, to read:

Sec. 21. To meet the needs resulting from war-caused or enemy-caused disaster in California, the Legislature may provide for:

(a) Filling the offices of members of the Legislature should at least one fifth of the membership of either house be killed, missing, or disabled, until they are able to perform their duties or successors are elected.

(b) Filling the office of Governor should he be killed, missing, or disabled, until he or his successor designated in this Constitution is able to perform his duties or a successor is elected.

(c) Convening the Legislature.

(d) Holding elections to fill offices that are elective under this Constitution and that are either vacant or occupied by persons not elected thereto.

(e) Selecting a temporary seat of state or county government.

Seventy-third, That Section 22 is added to Article IV, to read:

INITIATIVE AND REFERENDUM

Sec. 22. (a) The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.

(b) An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by electors equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the votes for all candidates for Governor at the last gubernatorial election.

(c) The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

(d) An initiative measure embracing more than one subject may not be submitted to the electors or have any effect.

Seventy-fourth, That Section 23 is added to Article IV, to read:

Sec. 23. (a) The referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.

(b) A referendum measure may be proposed by presenting to the Secretary of State, within 90 days after adjournment of the session at which the statute was passed, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or part of it be submitted to the electors.

(c) The Secretary of State shall then submit the measure at the next general election held at least 31 days after it qualifies or at a special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

Seventy-fifth, That Section 24 is added to Article IV, to read:

Sec. 24. (a) An initiative or referendum measure approved by a majority of the votes thereon takes effect 5 days after the date of the official declaration of the vote by the Secretary of State unless the measure provides otherwise. If a referendum petition is filed against a part of a statute the remainder of the statute shall not be delayed from going into effect.

(b) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

(c) The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval.

(d) Prior to circulation of an initiative or referendum petition for signatures, a copy shall be submitted to the Attorney General who shall prepare a title and summary of the measure as provided by law.

(e) The Legislature shall provide the manner in which petitions shall be circulated, presented, and certified, and measures submitted to the electors.

Seventy-sixth, That Section 25 is added to Article IV, to read:

Sec. 25. Initiative and referendum powers may be exercised by the electors of each city or county under procedures that the Legislature shall provide. This section does not affect a city having a charter.

Seventy-seventh, That Section 26 is added to Article IV, to read:

Sec. 26. No amendment to the Constitution, and no statute proposed to the electors by the Legislature or by initiative, that names any individual to hold any office, or names or identifies any private corporation to perform any function

or to have any power or duty, may be submitted to the electors or have any effect.

Seventy-eighth, That Section 28 is added to Article IV, to read:

MISCELLANEOUS

Sec. 28. A person holding a lucrative office under the United States or other power may not hold a civil office of profit. A local officer or postmaster whose compensation does not exceed 500 dollars per year or an officer in the militia or a member of a reserve component of the armed forces of the United States except where on active federal duty for more than 30 days in any year is not a holder of a lucrative office, nor is his holding of a civil office of profit affected by this military service.

Seventy-ninth, That Article V is repealed.

~~ARTICLE V~~

~~EXECUTIVE DEPARTMENT~~

~~SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the Governor of the State of California.~~

~~SEC. 2. The Governor shall be elected by the qualified electors at the time and places of voting for members of the Assembly, and shall hold his office four years from and after the first Monday after the first day of January subsequent to his election, and until his successor is elected and qualified.~~

~~SEC. 3. No person shall be eligible to the office of Governor who has not been a citizen of the United States and a resident of this State five years next preceding his election, and attained the age of twenty-five years at the time of such election.~~

~~SEC. 4. The Legislature may regulate by law the manner of making returns of elections for Governor and Lieutenant Governor.~~

~~SEC. 5. The Governor shall be Commander-in-Chief of the militia, the army and navy of this State.~~

~~SEC. 6. He shall transact all executive business with the officers of government, civil and military, and may require information, in writing, from the officers of the executive department, upon any subject relating to the duties of their respective offices.~~

~~SEC. 7. He shall see that the laws are faithfully executed.~~

~~SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and law for filling such vacancy, the Governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the Legislature, or at the next election by the people.~~

~~SEC. 9. He may, on extraordinary occasions, convene the Legislature by proclamation, stating the purposes for which he has convened it, and when so convened it shall have no power to legislate on any subjects other than those specified in the proclamation, but may provide for the expenses of the session and other matters incidental thereto.~~

~~SEC. 10. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.~~

~~SEC. 11. In case of a disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; provided, it be not beyond the time fixed for the meeting of the next Legislature.~~

~~SEC. 12. No person shall, while holding any office under the United States or this State, exercise the office of Governor except as hereinafter expressly provided.~~

~~SEC. 13. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California."~~

~~SEC. 14. All grants and commissions shall be in the name and by the authority of The People of the State of California, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.~~

~~SEC. 15. A Lieutenant Governor shall be elected at the same time and place and in the same manner as the Governor, and his term of office and his qualifications shall be the same. He shall be president of the Senate, but shall only have a casting vote therein.~~

~~SEC. 16. In case of vacancy in the Office of Governor the Lieutenant Governor shall become Governor and the last duly elected President pro Tempore of the Senate shall become Lieutenant Governor, for the residue of the term; but, if there be no such President pro Tempore of the Senate, the last duly elected Speaker of the Assembly shall become Lieutenant Governor for the residue of the term. In case of vacancy in the Office of Governor and in the Office of Lieutenant Governor, the last duly elected President pro Tempore of the Senate shall become Governor and the last duly elected Speaker of the Assembly shall become Lieutenant Governor, for the residue of the term; or if there be no President pro Tempore of the Senate, then the last duly elected Speaker of the Assembly shall become Governor for the residue of the term; or if there be none, then the Secretary of State; or if there be none, then the Attorney General; or if there be none, then the Treasurer; or if there be none, then the Controller; or if, as the result of a war or enemy-caused disaster, there be none, then such person designated as provided by law. If at the time this amendment takes effect a vacancy has occurred in the Office of Governor or in the Offices of Governor and Lieutenant Governor, within the term or terms thereof, the provisions of this section as amended by this amendment shall apply. In case of impeachment of the Governor or officer acting as Governor, his absence from the State, or his other temporary disability to discharge the powers and duties of office, then the powers and duties of the Office of Governor devolve upon the same officer as in the case of vacancy in the Office of Governor, but only until the disability shall cease.~~

~~In case of the death, disability or other failure to take office of the Governor-elect, whether occurring prior or subsequent to the returns of election, the Lieutenant Governor-elect shall act as Governor from the same time and in the same manner as provided for the Governor-elect and shall, in case of death, be Governor for the full term in the case of disability or other failure to take office,~~

~~...~~ act as Governor until the disability of the G... ...nor-elect shall cease.

... case of the death, disability or other failure to take office of both the Governor-elect and the Lieutenant Governor-elect, the last duly elected President pro Tempore of the Senate, or in case of his death, disability, or other failure to take office, the last duly elected Speaker of the Assembly, or in case of his death, disability, or other failure to take office, the Secretary of State-elect, or in case of his death, disability, or other failure to take office, the Attorney General-elect, or in case of his death, disability, or other failure to take office, the Treasurer-elect, or in case of his death, disability, or other failure to take office, the Controller-elect shall act as Governor from the same time and in the same manner as provided for the Governor-elect. Such person shall, in the case of death, be Governor for the full term as in the case of disability or other failure to take office shall act as Governor until the disability of the Governor-elect shall cease.

In any case in which a vacancy shall occur in the Office of Governor, and provision is not made in or pursuant to this Constitution for filling such vacancy, the senior deputy Secretary of State shall convene the Legislature by proclamation to meet within eight days after the occurrence of the vacancy in joint convention of both houses at an extraordinary session for the purpose of choosing a person to act as Governor until the office may be filled at the next general election appointed for election to the Office of Governor.

... such a session the Legislature may provide f... ...necessary expenses of the session and other ma...ers incidental thereto.

Sec. 17. A Secretary of State, a Controller, a Treasurer, and an Attorney General shall be elected at the same time and places, and in the same manner as the Governor and Lieutenant Governor, and their terms of office shall be the same as that of the Governor.

Sec. 18. The Secretary of State shall keep a correct record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature, and shall perform such other duties as may be assigned him by law.

Sec. 20. United States Senators shall be elected by the people of the State in the manner provided by law.

Sec. 21. Subject to the powers and duties of the Governor vested in him by Article V of the Constitution, the Attorney General shall be the chief law officer of the State and it shall be his duty to see that the laws of the State of California are uniformly and adequately enforced in every county of the State. He shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make to him such written reports concerning the investigation, detection, prosecution or ...nishment of crime in their respective jurisdi... as to him may seem advisable. Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases he shall have all the powers of a district attorney. When required by the public interest, or directed by the Governor, he shall assist any district attorney in the discharge of his duties. In addition to appropriations made by law for the use of the Attorney General, the Governor and the Controller may in writing authorize the setting aside and the payment in accordance with law, from moneys in the State treasury not otherwise appropriated, of such sums as they consider proper for the necessary expenses of the Attorney General in performing the duties imposed by this paragraph.

He shall also have such powers and perform such duties as are or may be prescribed by law and which are not inconsistent herewith.

The Attorney General shall receive the same salary as that now or hereafter prescribed by law for an associate justice of the Supreme Court, and he shall not engage in the private practice of law, nor shall he be associated directly or indirectly with any attorney in private practice; and he shall devote his entire time to the service of the State.

All provisions of this section shall be self-executing, but legislation may be enacted to facilitate their operation.

Sec. 22. The compensation for the services of the Governor, the Lieutenant Governor, the State Controller, Secretary of State, Superintendent of Public Instruction and State Treasurer may be fixed at any time by the Legislature at an amount not less than ten thousand dollars ($10,000) per annum, for the Governor, and not less than five thousand dollars ($5,000) per annum for each of the other state officers named herein. The compensation of no state officer named herein shall be increased or diminished during his term of office. Such compensation shall be in full for all services respectively rendered by them in any official capacity or employment whatsoever during their respective terms of office, and none of the officers named in this section, or the Attorney General, shall receive for his own use any fees or perquisites for the performance of any official duty.

Eightieth, That Article V is added, to read:

ARTICLE V

Executive

Sec. 1. The supreme executive power of this State is vested in the Governor. He shall see that the law is faithfully executed.

Sec. 2. The Governor shall be elected every fourth year at the same time and places as Assemblymen and hold office from the Monday after January 1 following his election until his successor qualifies. He shall be an elector who has been a citizen of the United States and a resident of this State for 5 years immediately preceding his election. He may not hold other public office.

Sec. 3. The Governor shall report to the Legislature at each session on the condition of the State and may make recommendations. He may adjourn the Legislature if the Senate and Assembly disagree as to adjournment.

Sec. 4. The Governor may require executive officers and agencies and their employees to furnish information relating to their duties.

Sec. 5. Unless the law otherwise provides, the Governor may fill a vacancy in office by appointment until a successor qualifies.

Sec. 6. Authority may be provided by statute for the Governor to assign and reorganize functions among executive officers and agencies and their employees, other than elective officers and agencies administered by elective officers.

Sec. 7. The Governor is commander in chief of a militia that shall be provided by statute. He may call it forth to execute the law.

Sec. 8. Subject to application procedures provided by statute, the Governor, on conditions he deems proper, may grant a reprieve, pardon, and commutation, after sentence, except in case of impeachment. At each session he shall report to the Legislature each reprieve, pardon, and commutation granted, stating the pertinent facts and his reasons for granting it. He may not grant a pardon or commutation to a person twice convicted of a felony except on recommendation of the Supreme Court, 4 judges concurring.

Sec. 9. The Lieutenant Governor shall have the same qualifications as the Governor. He is President of the Senate but has only a casting vote.

Sec. 10. The Lieutenant Governor shall become Governor when a vacancy occurs in the office of Governor.

He shall act as Governor during the impeachment, absence from the State, or other temporary disability of the Governor or of a Governor-elect who fails to take office.

The Legislature shall provide an order of precedence after the Lieutenant Governor for succession to the office of Governor and for the temporary exercise of his functions.

The Supreme Court has exclusive jurisdiction to determine all questions arising under this section.

Standing to raise questions of vacancy or temporary disability is vested exclusively in a body provided by statute.

Sec. 11. The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor.

Sec. 12. Compensation of the Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Superintendent of Public Instruction, and Treasurer shall be prescribed by statute but may not be increased or decreased during a term.

Sec. 13. Subject to the powers and duties of the Governor, the Attorney General shall be the chief law officer of the State. It shall be his duty to see that the laws of the State are uniformly and adequately enforced. He shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make to him such reports concerning the investigation, detection, prosecution, and punishment of crime in their respective jurisdictions as to him may seem advisable. Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases he shall have all the powers of a district attorney. When required by the public interest or directed by the Governor, he shall assist any district attorney in the discharge of his duties.

Eighty-first. That Article VI is repealed.

~~ARTICLE VI~~

~~JUDICIAL DEPARTMENT~~

~~SECTION 1. The judicial power of the State shall be vested in the Senate, sitting as a court of impeachment, in a Supreme Court, district courts of appeal, superior courts, municipal courts, and justice courts.~~

~~SEC. 1a. There shall be a Judicial Council. It shall consist of, (i) the Chief Justice or Acting Chief Justice, (ii) one associate justice of the Supreme Court, three justices of districts courts of appeal, four judges of superior courts, two judges of municipal courts, and one judge of a justice court, designated by the Chief Justice for terms of two years; (iii) four members of the State Bar of California appointed by the Board of Governors of the State Bar for terms of two years, two of the first such appointees to be appointed for one year and two for two years; and (iv) one member of each house of the Legislature designated as provided by the respective house. If any judge so designated shall cease to be a judge of the court in which he is selected, his designation shall forthwith terminate. If any member of the State Bar so appointed shall cease to be a member of the State Bar, his appointment shall forthwith terminate, and the Board of Governors of the State Bar shall fill the vacancy in his unexpired term. If any member of the Legislature so designated shall cease to be a member of the house from which designated, his designation shall forthwith terminate, and a new designation shall be made in the manner provided by the respective house. The Chief Justice or Acting Chief Justice shall be chairman and the Clerk of the Supreme Court shall serve as secretary. The council may appoint an administrative director of the courts, who shall hold office at its pleasure and shall perform such of the duties of the council and of its chairman, other than to adopt or amend rules of practice and procedure, as may be delegated to him. No act of the council shall be valid unless concurred in by a majority of its members.~~

~~The Judicial Council shall from time to time:~~

~~(1) Meet at the call of the chairman or as otherwise provided by it.~~

~~(2) Survey the condition of business in the several courts with a view to simplifying and improving the administration of justice.~~

~~(3) Submit such suggestions to the several courts as may seem in the interest of uniformity and the expedition of business.~~

~~(4) Report to the Governor and Legislature at the commencement of each regular session such recommendations as it may deem prop~~

~~(5) Submit to the Legislature, at each general session thereof, its recommendations with reference~~

to amendments of, or changes in, existing laws re-
[illegible] to practice and procedure;

Adopt or amend rules of practice and procedure for the several courts not inconsistent with laws that are now or that may hereafter be in force;

(7) Exercise such other functions as may be provided by law.

The chairman shall seek to expedite judicial business and to equalize the work of the judges, and shall provide for the assignment of any judge to another court of a like or higher jurisdiction to assist a court or judge whose calendar is congested, to act for a judge who is disqualified or unable to act, or to sit and hold court where a vacancy in the office of judge has occurred. A judge may likewise be assigned with his consent to a court of lower jurisdiction, and a retired judge may similarly be assigned with his consent to any court.

The judges shall co-operate with the council, shall sit and hold court as assigned, and shall report to the chairman at such times and in such manner as he shall request respecting the condition, and manner of disposal, of judicial business in their respective courts.

No member of the council shall receive any compensation for his services as such, but shall be allowed his necessary expenses for travel, board and lodging incurred in the performance of his duties as such. Any judge assigned to a court wherein a judge's compensation is greater than his own shall receive while sitting therein the compensation of a judge thereof. The extra compensation shall be paid in such manner as may be provided by law. Any j[illegible] assigned to a court in a county other than t[illegible] which he regularly sits shall be allowed his necessary expenses for travel, board and lodging incurred in the discharge of the assignment.

SEC. 11. There shall be a Commission on Judicial Qualifications. It shall consist of: (i) Two justices of district courts of appeal, two judges of superior courts, a [illegible] one judge of a municipal court, each selected by the Supreme Court for a four-year term; (ii) two members of the State Bar, who shall have practiced l[illegible] w in this State for at least 10 years and who shall be appointed by the Board of Governors of the State Bar for a four-year term; and (iii) two citizens, neither of whom shall be a justice or judge of any court, active or retired, nor a member of the State Bar, and who shall be appointed by the Governor for a four-year term. Every appointment made by the Governor to the commission shall be subject to the advice and consent of a majority of members elected to the Senate, except that if a vacancy occurs when the Legislature is not in session, the Governor may issue an interim commission which shall expire on the last day of the next regular or special session of the Legislature. Whenever a member selected under subdivision (i) ceases to be a member of the commission or a justice or judge of the court from which he was selected, his membership shall forthwith terminate and the Supreme Court shall select a successor for a four-year term; and whenever a member appointed under subdivision (ii) ceases to be a member of the commission or of the State Bar, his membership shall forthwith terminate and the Board of [illegible] nors of the State Bar shall appoint a succes[illegible] r a four-year term; and whenever a member appointed under subdivision (iii) ceases to be a member of the commission or becomes a justice or judge of any court or a member of the State Bar, his membership shall forthwith terminate and the Governor shall appoint a successor for a four-year term. No member of the commission shall receive any compensation for his services as such, but shall be allowed his necessary expenses for travel, board and lodging incurred in the performance of his duties as such.

No act of the commission shall be valid unless concurred in by a majority of its members. The commission shall select one of its members to serve as chairman.

SEC. 1. The State Bar of California is a public corporation with perpetual existence and succession. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a justice or judge of a court of record.

SEC. 2. The Supreme Court shall consist of a Chief Justice and six Associate Justices. The Court may sit in departments and in bank, and shall always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the Associate Justices to each department, and such assignment may be changed by him from time to time. The Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the Chief Justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the Court in bank. The presence of three Justices shall be necessary to transact any business in either of the departments, except such as may be done at Chambers, and the concurrence of three Justices shall be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the Court to be heard and decided by the Court in bank. The order may be made before or after judgment pronounced by a department, but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment, and concurred in by two Associate Justices, and if so made it shall have the effect to vacate and set aside the judgment. Any four Justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the Chief Justice, in writing, with the concurrence of two Associate Justices. The Chief Justice may convene the Court in bank at any time, and shall be the presiding Justice of the Court when so convened. The concurrence of four Justices present at the argument shall be necessary to pronounce a judgment in bank; but if four Justices, so present, do not concur in a judgment, then all the Justices qualified to sit in the cause shall hear the argument, but to render a judgment a concurrence of four Judges shall be necessary. In the determination of

causes, all decisions of the Court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The Chief Justice may sit in either department, and shall preside when so sitting, but the Justices assigned to each department shall select one of their number as presiding Justice. In case of the absence of the Chief Justice from the place at which the Court is held, or his inability to act, the Associate Justices shall select one of their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.

SEC. 3. The Chief Justice and the associate justices shall be elected by the qualified electors of the State at large at the general elections, at the time and places at which state officers are elected as provided in Section 26 of this article, and the term of office shall be 12 years from and after the first Monday after the first day of January next succeeding their election, except that the term of a justice elected to fill a term which expires subsequent to the first Monday after the first day of January next after his election shall be for the remainder of the unexpired term in the office to which he is elected.

SEC. 4. The supreme court shall have appellate jurisdiction on appeal from the superior courts in all cases in equity, except such as arise in municipal or justices' courts; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine also, in all such probate matters as may be provided by law; also, on questions of law alone, in all criminal cases where judgment of death has been rendered; the said court shall also have appellate jurisdiction in all cases, matters and proceedings pending before a district court of appeal, which shall be ordered by the supreme court to be transferred to itself for hearing and decision, as hereinafter provided. The said court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the supreme court or before any district court of appeal, or before any justice thereof, or before any superior court in the State, or before any judge thereof.

SEC. 4a. The State shall be divided into at least three appellate districts, known as the First, Second and Third Appellate Districts, in each of which there shall be a district court of appeal, consisting of such number of divisions having three justices each as the Legislature shall determine.

The Legislature may from time to time create and establish additional district courts of appeal or divisions thereof and fix the places at which the regular sessions thereof shall be held and may provide for the maintenance and operation thereof. For that purpose the Legislature may redivide the State into appellate districts, subject to the power of the Supreme Court to remove one or more counties from one appellate district to another as in this section provided.

Each of such divisions shall have and exercise all of the powers of the district court of appeal.

Upon the creation of any additional division of the district court of appeal the Governor shall appoint three persons to serve as justices [illegible] as provided in Section 26 of this article. The justices of said division first elected as provided in Section 26 of this article shall so classify themselves by lot that one of them shall go out of office at the end of four years, one of them at the end of eight years, and one of them at the end of 12 years, and entry of such classification shall be made in the minutes of said division, signed by the three justices thereof, and a duplicate thereof filed in the office of the Secretary of State.

The justices of the district courts of appeal shall be elected by the qualified electors within their respective districts at the general elections as provided in Section 26 of this article, and the term of office of said justices shall be 12 years from and after the first Monday after the first day of January next succeeding their election, except that the term of a justice elected to fill a term which expires subsequent to the first Monday after the first day of January next after his election shall be for the remainder of the unexpired term in the office to which he is elected.

One of the justices of each of the district courts of appeal, and of each division of said courts, shall be the presiding justice thereof, and as such shall be appointed or elected, as the case may be.

In cases wherein the presiding justice is not acting, the other justices shall designate one of their number to perform the duties and exercise the powers of presiding justice.

The presence of two justices shall be necessary for the transaction of any business by such [illegible] except such as may be done at chambers, as [illegible] concurrence of two justices shall be necessary to pronounce a judgment.

No appeal taken to the supreme court or to a district court of appeal shall be dismissed for the reason only that the same was not taken to the proper court, but the cause shall be transferred to the proper court upon such terms as to costs or otherwise as may be just, and shall be proceeded with therein as if regularly appealed thereto.

The Supreme Court, by orders entered in its minutes, may from time to time remove one or more counties from one appellate district to another, but no county not contiguous to another county of a district shall be added to such district.

The district courts of appeal in the First, Second and Third Appellate Districts shall hold their regular sessions respectively at San Francisco, Los Angeles and Sacramento, and they shall always be open for the transaction of business.

SEC. 4b. The district courts of appeal shall have appellate jurisdiction on appeal from the superior courts (except in cases in which appellate jurisdiction is given to the supreme court) in all cases at law in which the superior courts are given original jurisdiction; also, in all cases of forcible or unlawful entry or detainer (except such as arise in municipal, or in justices' or other inferior courts); in proceedings in insolvency; in actions to prevent or abate a nuisance; in proceedings of mandamus, certiorari, prohibition, usurpation of office, removal from office, contesting elections, eminent domain, and in such other special proce[illegible] as may be provided by law; also, on questi[illegible] law alone, in all criminal cases prosecuted by an

dictment or information, except where judgment e th has been rendered.

said courts shall also have appellate jurisdiction in all cases, matters, and proceedings pending before the supreme court which shall be ordered by the supreme court to be transferred to a district court of appeal for hearing and decision. The said courts shall also have power to issue writs of mandamus, certiorari, prohibition and habeas corpus, and all other writs necessary or proper to the complete exercise of their appellate jurisdiction. Each of the justices thereof shall have power to issue writs of habeas corpus to any part of his appellate district upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the district court of appeal of his district, or before any superior court within his district, or before any judge thereof.

Sec. 1c. The Supreme Court may order any case (i) in the Supreme Court transferred to a district court of appeal for decision, and (ii) in the district court of appeal for one district transferred to the district court of appeal for another district, or in one division of a district court of appeal transferred to another division of the same district court of appeal, for decision. An order under this section must be made before decision by the court or division from which the case is to be transferred.

Sec. 1d. The Supreme Court may order any case in a district court of appeal transferred to it for decision. An order under this section may be r before decision by the district court of appeal r reafter up to the time such decision becomes fina as provided by rule of the Judicial Council.

Sec. 1e. The district courts of appeal shall have appellate jurisdiction on appeal in all cases within the original jurisdiction of the municipal and justice courts, to the extent and in the manner provided for by law.

Sec. 1½. No judgment shall be set aside, or new trial granted, in any case, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice.

Sec. 4¾. In all cases where trial by jury is not a matter of right or where trial by jury has been waived, the Legislature may grant to any court of appellate jurisdiction the power, in its discretion, to make findings of fact contrary to, or in addition to, those made by the trial court. The Legislature may provide that such findings may be based on the evidence adduced before the trial court, either with or without the taking of additional evidence by the court of appellate jurisdiction. The Legislature may also grant to any court of appellate jurisdiction the power, in its discretion, for the purpose of making such findings or for any other purpose in the interest of justice, t e additional evidence of or concerning facts r ring at any time prior to the decision of the appeal, and to give or direct the entry of any judgment or order and to make such further or other order as the case may require.

Sec. 5. The superior courts shall have original jurisdiction in all civil cases and proceedings (except as in this article otherwise provided, and except also cases and proceedings in which jurisdiction is or shall be given by law to municipal or to justices or other inferior courts); in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; and of all such special cases and proceedings as are not otherwise provided for; and said court shall have the power of naturalization and to issue papers therefor.

The superior courts shall have appellate jurisdiction in such cases arising in municipal and in justices' and other inferior courts in their respective counties or cities and counties as may be prescribed by law. The Legislature may, in addition to any other appellate jurisdiction of the superior courts, also provide for the establishment of appellate departments of the superior court in any county or city and county wherein any municipal court is established, and for the constitution, regulation, jurisdiction, government and procedure of such appellate departments. Superior courts, municipal courts and justices' courts in cities having a population of more than forty thousand inhabitants shall always be open, legal holidays and nonjudicial days excepted. The process of superior courts shall extend to all parts of the State; *provided*, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions, is situated. Said superior courts, and their judges shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus on petition by or on behalf of any person in actual custody, in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and nonjudicial days. The process of any municipal court shall extend to all parts of the county or city and county in which the city is situated where such court is established, and to such other parts of the State as may be provided by law, and such process may be executed or enforced in such manner as the Legislature shall provide.

Upon stipulation of the parties litigant or their attorneys of record a cause in the superior court or in a municipal court may be tried by a judge pro tempore who must be a member of the bar sworn to try the cause, and who shall be empowered to act in such capacity in the cause tried before him until the final determination thereof. The selection of such judge pro tempore shall be subject to the approval and order of the court in which said cause is pending and shall also be subject to such regulations and orders as may be prescribed by the judicial council.

Sec. 6. There shall be in each of the organized counties, or cities and counties, of the State, a superior court, for each of which at least one judge shall be elected by the qualified electors of the county, or city and county, at the general state election, except that in any county or city and

county containing a population of more than 700,000, as determined by the last preceding federally published decennial census, in which only the incumbent has filed nomination papers for the office of superior court judge, his name shall not appear on the ballot unless there is filed with the county clerk or registrar of voters, within 20 days after the final date for filing nomination papers for the office, a petition indicating that a write-in campaign will be conducted for the office and signed by 100 registered voters qualified to vote with respect to the office.

If a petition indicating that a write-in campaign will be conducted for the office at the general election, signed by 100 registered voters qualified to vote with respect to the office, is filed with the county clerk or registrar of voters not less than 15 days before the general election, the name of the incumbent shall be placed on the general election ballot if it has not appeared on the direct primary election ballot.

There may be as many sessions of a superior court, at the same time, as there are judges elected, appointed or assigned thereto. The judgments, orders, and proceedings of any session of a superior court, held by any one or more of the judges sitting therein, shall be equally effectual as though all the judges of said court presided at such session.

If, in conformity with this section, the name of the incumbent does not appear either on the primary ballot or general election ballot, the county clerk or registrar of voters, on the day of the general election, shall declare the incumbent reelected.

SEC. 7. The judges of each superior court in which there are more than two judges sitting, shall choose, from their own number, a presiding judge, who may be removed as such at their pleasure. Subject to the regulations of the judicial council, he shall distribute the business of the court among the judges, and prescribe the order of business.

SEC. 8. The term of office of judges of the superior courts shall be six years from and after the first Monday of January after the first day of January next succeeding their election. A vacancy in such office shall be filled by the election of a judge for a full term at the next general state election after the first day of January next succeeding the accrual of the vacancy, except that if the term of an incumbent, elective or appointive, is expiring at the close of the year of a general state election and a vacancy accrues after the commencement of that year and prior to the commencement of the ensuing term, the election to fill the office for the ensuing full term shall be held in the closing year of the expiring term in the same manner and with the same effect as though such vacancy had not accrued. In the event of any vacancy, the Governor shall appoint a person to hold the vacant office until the commencement of the term of the judge elected to the office as herein provided.

SEC. 9. The Legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have forfeited his office. The Legislature of the State may at any time, two-thirds of the members of the Senate and two-thirds of the members of the Assembly voting therefor, increase or diminish the number of Judges of the Superior Court in any county or city and county of this State; *provided*, that no such reduction shall affect any Judge who has been elected.

SEC. 10. Justices of the supreme court, and of the district courts of appeal, and judges of the superior courts may be removed by concurrent resolution of both Houses of the Legislature adopted by a two-thirds vote of each House. All other judicial officers, except justices of the peace, may be removed by the Senate on the recommendation of the Governor; but no removal shall be made by virtue of this section unless the cause thereof be entered on the journal, nor unless the party complained of has been served with a copy of the complaint against him and shall have had an opportunity of being heard in his defense. On the question of removal the ayes and noes shall be entered on the Journal.

SEC. 10a. Whenever a justice of the supreme court, or of a district court of appeal, or a judge of any court of this State, has been convicted in any court of this State or of the United States, of a crime involving moral turpitude, the supreme court shall of its own motion or upon a petition filed by any person, and upon finding that such a conviction was had, enter its order suspending said justice or judge from office until such time as said judgment of conviction becomes final, and the payment of salary of said justice or judge shall also be suspended from the date of such order. When said judgment of conviction becomes final, the supreme court shall enter its order permanently disbar said justice or judge and striking his name from the roll of attorneys and counsellors, and removing said justice or judge from office and his right to salary shall cease from the date of the order of suspension. If said judgment of conviction is reversed, the supreme court shall enter its order terminating the suspension of said justice or judge and said justice or judge shall be entitled to his salary for the period of the suspension.

SEC. 10b. A justice or judge of any court of this State, in accordance with the procedure prescribed in this section, may be removed for willful misconduct in office or willful and persistent failure to perform his duties or habitual intemperance, or he may be retired for disability seriously interfering with the performance of his duties, which is or is likely to become, of a permanent character. The Commission on Judicial Qualifications may, after such investigation as the commission deems necessary, order a hearing to be held before it concerning the removal or retirement of a justice or a judge, or the commission may in its discretion request the Supreme Court to appoint three special masters, who shall be justices or judges of courts of record, to hear and take evidence in any such matter, and to report thereon to the commission. If, after hearing, or after considering the record and report of the masters, the commission finds good cause therefor, it shall recommend to the Supreme Court the removal or retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal or retirement, as

It finds just and proper, or wholly reject the rec- ndation. Upon an order for retirement, the e or judge shall thereby be retired with the same rights and privileges as if he retired pursuant to statute. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order.

All papers filed with and proceedings before the Commission on Judicial Qualifications or masters appointed by the Supreme Court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the commission or the masters shall be privileged, but no other publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the commission in the Supreme Court continues privileged and upon such filing loses its confidential character and (b) a writing which was privileged prior to its filing with the commission or the masters does not lose such privilege by such filing. The Judicial Council shall by rule provide for procedure under this section before the Commission on Judicial Qualifications, the masters, and the Supreme Court. A justice or judge who is a member of the commission or Supreme Court shall not participate in any proceedings involving his own removal or retirement.

This section is alternative to, and cumulative with, the methods of removal of justices and judges provided in Sections 10 and 10a of this article, Sections 17 and 18 of Article IV, and Article XXIII, of this Constitution.

 11. Each county of the State shall be di- into judicial districts in the manner to be prescribed by the Legislature, provided, however, that no incorporated city or city and county shall be divided so as to lie partly within one district and partly within another.

In each district containing a population of more than forty thousand inhabitants, as ascertained in the manner prescribed by the Legislature, and in each consolidated city and county there shall be a municipal court, in each district containing a population of forty thousand inhabitants or less, as ascertained in the manner prescribed by the Legislature, there shall be a justice court, except that the Legislature may provide that each incorporated city the boundaries of which were coextensive with those of the township two years before the effective date of this amendment and which is entirely surrounded by another incorporated city containing a population of more than forty thousand inhabitants shall constitute a judicial district in which there shall be a municipal court. For each such municipal court and justice court at least one judge, with such additional judges as may be authorized, shall be elected by the qualified electors of the district; provided, however, that the judges of the municipal courts heretofore established pursuant to general law shall continue in office during the terms for which they were elected or appointed and until their successors are elected and qualify.

The Legislature shall provide by general law for the regulation, government, procedure and jurisdiction of municipal courts and of justice courts, r 'will fix by law the powers, duties and respon- ies of such courts and of the judges thereof. xcept as such matters are otherwise provided in this article, the Legislature shall prescribe the manner in which, the time at which, and the terms for which the judges, officers and attaches of municipal courts and of justice courts shall be elected or appointed, the number, qualifications and compensation of the judges, officers and attaches of municipal courts, and provide for the manner in which the number, qualifications and compensation of the judges, officers and attaches of justice courts shall be fixed.

In each judicial district or consolidated city and county in which a municipal or justice court is established, and in cities and townships situated in whole or in part in such district or city and county, there shall be no other court inferior to the superior court; provided, however, that in each such district or city and county existing courts shall continue to function as presently organized until the first selection and qualification of the judge or judges of the municipal or justice court, at which time, unless otherwise provided by law, pending actions, trials and all pending business of existing courts shall be transferred to and become pending in the municipal or justice court established for the judicial district or city and county in which they are situated, and all records of such superseded courts shall be transferred to, and thereafter be and become records of said municipal or justice court.

The compensation of the justices or judges of all courts of record shall be fixed, and the payment thereof prescribed, by the Legislature.

The Legislature shall enact such general or special laws, except in the particulars otherwise specified herein, as may be necessary to carry out the provisions of this section.

SEC. 12. The supreme court, the district courts of appeal, the superior courts, the municipal courts, and such other courts as the Legislature shall prescribe, shall be courts of record.

SEC. 14. The county clerks shall be ex officio clerks of the courts of record, other than municipal courts, in and for their respective counties or cities and counties. The Legislature may also provide for the appointment, by the several superior courts, of one or more commissioners in their respective counties, or cities and counties, with authority to perform chamber business of the judges of the superior courts, to take depositions, and to perform such other business connected with the administration of justice as may be prescribed by law.

SEC. 15. No judicial officer shall receive to his own use any fees or perquisites of office.

SEC. 16. The Legislature shall provide for the speedy publication of such opinions of the supreme court and of the district courts of appeal as the supreme court may deem expedient, and all opinions shall be free for publication by any person.

SEC. 18. The justices of the supreme court, and of the district courts of appeal and the judges of the superior courts and the municipal courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected or appointed, and no justice or judge of a court of record shall practice law in or out of court during his continuance in office; *provided, however,* that a judge of the superior court or of a municipal court shall be eligible to election or appointment to a public office during the time for which he may be

elected, and the acceptance of any other office shall be deemed to be a resignation from the office held by said judge.

Sec. 19. The court may instruct the jury regarding the law applicable to the facts of the case, and may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the case. The court shall inform the jury in all cases that the jurors are the exclusive judges of all questions of fact submitted to them and of the credibility of the witnesses.

Sec. 20. The style of all process shall be, "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

Sec. 21. The Supreme Court shall appoint a clerk of the Supreme Court. Said court may also appoint a reporter and assistant reporters of the decisions of the Supreme Court and of the district courts of appeal. Each of the district courts of appeal shall appoint its own clerk. All the officers herein mentioned shall hold office and be removable at the pleasure of the courts by which they are severally appointed, and they shall receive such compensation as shall be prescribed by law, and discharge such duties as shall be prescribed by law, or by the rules or orders of the courts by which they are severally appointed.

Sec. 22. No person shall be eligible to the office of a Justice of the Supreme Court, or of a district court of appeal, or of a judge of a superior court, or of a municipal court, unless he shall have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding his election or appointment to such office; provided, however, that any elected judge or justice of an existing court who has served in that capacity by election or appointment for five consecutive years immediately preceding the effective date of this amendment shall be eligible to become the judge of a municipal court by which the existing court is superseded upon the establishment of said municipal court or at the first election of judges thereto and for any consecutive terms thereafter for which he may be reelected. The requirement of consecutive years of judicial service shall be deemed to have been met even though interrupted by service in the armed forces of the United States during the period of war.

Sec. 24. No justice of the supreme court nor of a district court of appeal, nor any judge of a superior court nor of a municipal court shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undetermined that has been submitted for decision for a period of ninety days. In the determination of causes all decisions of the supreme court and of the district courts of appeal shall be given in writing, and the grounds of the decision shall be stated.

Sec. 26. Within thirty days before the sixteenth day of August next preceding the expiration of his term, any justice of the Supreme Court, justice of a District Court of Appeal, or judge of a superior court in any county the electors of which have adopted the provisions of this section as applicable to the judge or judges of the superior court of such county in the manner hereinafter provided, may file with the officer charged with the duty of certifying nominations for publication the official ballot a declaration of candidacy for election to succeed himself. If he does not file such declaration the Governor must nominate a suitable person for the office before the sixteenth day of September, by filing such nomination with the officer charged with said duty of certifying nominations.

In either event, the name of such candidate shall be placed upon the ballot for the ensuing general election in November in substantially the following form:

For —————————— (title of office) Shall —————————— (name) be elected to the office for the term expiring January ——, ——? (year)	Yes No

No name shall be placed upon the ballot as a candidate for any of said judicial offices except that of a person so declaring or so nominated. If a majority of the electors voting upon such candidacy vote "yes," such person shall be elected to said office. If a majority of those voting thereon vote "no," he shall not be elected, and may not thereafter be appointed to fill any vacancy in that court, but may be nominated and elected thereto as hereinabove provided.

Whenever a vacancy shall occur in any judicial office above named, by reason of the failure of a candidate to be elected or otherwise, the Governor shall appoint a suitable person to fill the vacancy. An incumbent of any such judicial office serving a term by appointment of the Governor shall hold office until the first Monday after the first day of January following the general election next after his appointment, or until the qualification of any nominee who may have been elected to said office prior to that time.

No such nomination or appointment by the Governor shall be effective unless there be filed with the Secretary of State a written confirmation of such nomination or appointment signed by a majority of the three officials herein designated as the Commission on Judicial Appointments. The commission shall consist of (1) the Chief Justice of the Supreme Court, or, if such office be vacant, the acting Chief Justice; (2) the presiding justice of the district court of appeal of the district in which a justice of a district court of appeal or a judge of a superior court is to serve, or, if there be two such presiding justices, the one who has served the longer as such; or, in the case of the nomination or appointment of a justice of the Supreme Court, the presiding justice who has served longest as such upon any of the district courts of appeal; and (3) the Attorney General. If two or more presiding justices above designated shall have served terms of equal length, they shall choose the one who is to be a member of the commission by lot, whenever occasion for action arises. The Legislature shall provide by general law for the retirement, with reasonable retirement allowance, of such justices and judges for age or disability.

In addition to the methods of removal by the Legislature provided by sections 17 and 18 of Ar-

~~(b), IV and by section 10 of this article, the provi-~~ ~~of Article XXIII relative to the recall of~~ ~~public officers shall be applicable to justices and judges elected and appointed pursuant to the provisions of this section as far as the same relate to removal from office.~~

~~The provisions of this section shall not apply to the judge or judges of the superior court of any county until a majority of the electors of such county voting on the question of the adoption of such provisions, in a manner to be provided for by the Legislature, shall vote in favor thereof.~~

~~If the Legislature diminishes the number of judges of the superior court in any county or city and county, the offices which first became vacant to the number of judges diminished, shall be deemed to be abolished.~~

Eighty-second, That Article VI is added, to read:

ARTICLE VI

JUDICIAL

Sec. 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, superior courts, municipal courts, and justice courts. All except justice courts are courts of record.

Sec. 2. The Supreme Court consists of the Chief Justice of California and 6 associate justices. The Chief Justice may convene the court at any time. Concurrence of 4 judges present at the argument is necessary for a judgment.

An acting Chief Justice shall perform all functions of the Chief Justice when he is absent or unable to act. The Chief Justice or, if he fails to do so, the court shall select an associate justice as acting Chief Justice.

Sec. 3. The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division consists of a presiding justice and 2 or more associate justices. It has the power of a court of appeal and shall conduct itself as a 3-judge court. Concurrence of 2 judges present at the argument is necessary for a judgment.

An acting presiding justice shall perform all functions of the presiding justice when he is absent or unable to act. The presiding justice or, if he fails to do so, the Chief Justice shall select an associate justice of that division as acting presiding justice.

Sec. 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.

The county clerk is ex officio clerk of the superior court in his county.

Sec. 5. Each county shall be divided into municipal court and justice court districts as provided by statute, but a city may not be divided into more than one district. Each municipal and justice court shall have one or more judges.

There shall be a municipal court in each district of more than 40,000 residents and a justice court in each district of 40,000 residents or less. The number of residents shall be ascertained as provided by statute.

The Legislature shall provide for the organization and prescribe the jurisdiction of municipal and justice courts. It shall prescribe for each municipal court and provide for each justice court the number, qualifications, and compensation of judges, officers, and employees.

Sec. 6. The Judicial Council consists of the Chief Justice as chairman and one other judge of the Supreme Court, 3 judges of courts of appeal, 5 judges of superior courts, 3 judges of municipal courts, and 2 judges of justice courts, each appointed by the chairman for a 2-year term; 4 members of the State Bar appointed by its governing body for 2-year terms; and one member of each house of the Legislature appointed as provided by the house.

Council membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or its chairman, other than adopting rules of court administration, practice and procedure.

To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, not inconsistent with statute, and perform other functions prescribed by statute.

The chairman shall seek to expedite judicial business and to equalize the work of judges; he may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

Judges shall report to the chairman as he directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned.

Sec. 7. The Commission on Judicial Appointments consists of the Chief Justice, the Attorney General, and the presiding justice of the court of appeal of the affected district or, if there are 2 or more presiding justices, the one who has presided longest or, when a nomination or appointment to the Supreme Court is to be considered, the presiding justice who has presided longest on any court of appeal.

Sec. 8. The Commission on Judicial Qualifications consists of 2 judges of courts of appeal, 2 judges of superior courts, and one judge of a municipal court, each appointed by the Supreme Court; 2 members of the State Bar who have practiced law in this State for 10 years, appointed by its governing body; and 2 citizens who are not judges, retired judges, or members of the State Bar, appointed by the Governor and approved by the Senate, a majority of the membership concurring. All terms are 4 years.

Commission membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

Sec. 9. The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record.

Sec. 10. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition.

Superior courts have original jurisdiction in all causes except those given by statute to other trial courts.

The court may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.

Sec. 11. The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior courts have original jurisdiction and in other causes prescribed by statute.

Superior courts have appellate jurisdiction in causes prescribed by statute that arise in municipal and justice courts in their counties.

The Legislature may permit appellate courts to take evidence and make findings of fact when jury trial is waived or not a matter of right.

Sec. 12. The Supreme Court may, before decision becomes final, transfer to itself a cause in a court of appeal. It may, before decision, transfer a cause from itself to a court of appeal or from one court of appeal or division to another. The court to which a cause is transferred has jurisdiction.

Sec. 13. No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice.

Sec. 14. The Legislature shall provide for the prompt publication of such opinions of the Supreme Court and courts of appeal as the Supreme Court deems appropriate, and those opinions shall be available for publication by any person.

Decisions of the Supreme Court and courts of appeal that determine causes shall be in writing with reasons stated.

Sec. 15. A person is ineligible to be a judge of a court of record unless for 5 years immediately preceding selection to a municipal court or 10 years immediately preceding selection to other courts, he has been a member of the State Bar or served as a judge of a court of record in this State. A judge eligible for municipal court service may be assigned by the chairman of the Judicial Council to serve on any court.

Sec. 16. (a) Judges of the Supreme Court shall be elected at large and judges of courts of appeal shall be elected in their districts at general elections at the same time and places as the Governor. Their terms are 12 years beginning the Monday after January 1 following their ele
except that a judge elected to an unexpired
serves the remainder of the term. In creating a new court of appeal district or division the Legislature shall provide that the first elective terms are 4, 8, and 12 years.

(b) Judges of other courts shall be elected in their counties or districts at general elections. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.

(c) Terms of judges of superior courts are 6 years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins.

(d) Within 30 days before August 16 preceding the expiration of his term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed himself. If he does not, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether he shall be elected. If he receives a majority of the votes on the question he is elected. A candidate not elected may not be appointed to that court but later may be nominated and elected.

The Governor shall fill vacancies in those c
by appointment. An appointee holds office
the Monday after January 1 following the
general election at which he had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts.

Sec. 17. A judge of a court of record may not practice law and during the term for which he was selected is ineligible for public employment or public office other than judicial employment or judicial office. A judge of the superior or municipal court may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. Acceptance of the public office is a resignation from the office of judge.

A judicial officer may not receive fines or fees for his own use.

Sec. 18. (a) A judge is disqualified from acting as a judge, without loss of salary, while there is pending (1) an indictment or an information charging him in the United States with a crime punishable as a felony under California or federal law, or (2) a recommendation to the Supreme Court by the Commission on Judicial Qualifications for his removal or retirement.

(b) On recommendation of the Commission on Judicial Qualifications or on its own motio
Supreme Court may suspend a judge from
without salary when in the United States he

pleads guilty or no contest or is found guilty of a crime punishable as a felony under California or federal law or of any other crime that involves moral turpitude under that law. If his conviction is reversed suspension terminates, and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final the Supreme Court shall remove him from office.

(c) On recommendation of the Commission on Judicial Qualifications the Supreme Court may (1) retire a judge for disability that seriously interferes with the performance of his duties and is or is likely to become permanent, and (2) censure or remove a judge for action occurring not more than 6 years prior to the commencement of his current term that constitutes wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(d) A judge retired by the Supreme Court shall be considered to have retired voluntarily. A judge removed by the Supreme Court is ineligible for judicial office and pending further order of the court he is suspended from practicing law in this State.

(e) The Judicial Council shall make rules implementing this section and providing for confidentiality of proceedings.

Sec. 19. The Legislature shall prescribe compensation for judges of courts of record.

A judge of a court of record may not receive his salary while any cause before him remains pending and undetermined for 90 days after it has been submitted for decision.

Sec. 20. The Legislature shall provide for retirement, with reasonable allowance, of judges of courts of record for age or disability.

Sec. 21. On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause.

Sec. 22. The Legislature may provide for the appointment by trial courts of record of officers such as commissioners to perform subordinate judicial duties.

Eighty-third, That Article VII is repealed.

~~ARTICLE VII~~

~~PARDONING POWER~~

~~SECTION 1. The Governor shall have the power to grant reprieves, pardons, and commutations of sentence, after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, the Governor shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. The Governor shall communicate to the Legislature at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence, its date, the date of the pardon or reprieve, and the reasons for granting the same. Neither the Governor nor the Legislature shall have power to grant pardons, or commutations of sentence, in any case where the convict has been twice convicted of felony, unless upon the written recommendation of a majority of the Judges of the Supreme Court.~~

Eighty-fourth, That Article VIII is repealed.

~~ARTICLE VIII~~

~~MILITIA~~

~~SECTION 1. The Legislature shall provide, by law, for organizing and disciplining the militia, in such manner as it may deem expedient, not incompatible with the Constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the Legislature shall from time to time direct, and shall be commissioned by the Governor. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.~~

~~SEC. 2. All military organizations provided for by this Constitution, or any law of this State, and receiving State support, shall, while under arms either for ceremony or duty, carry no device, banner, or flag of any State or nation, except that of the United States or the State of California.~~

Eighty-fifth, That Section 29 is added to Article XIII, to read:

Sec. 29. Not more than 25 percent of the total appropriations from all funds of the State shall be raised by means of taxes on real and personal property according to the value thereof.

Eighty-sixth, That Section 4 is added to Article XXII, to read:

Sec. 4. Nothing in Section 15 of Article VI affects the eligibility of a judge to serve in or be elected to his office if the judge was selected prior to the operative date of Section 15 and was eligible under the law at the time of that selection.

Eighty-seventh, That Section 5 is added to Article XXII, to read:

Sec. 5. In any case in which, under the law in effect prior to the operative date of this section, the term of a judge of a municipal or justice court expires in January in a year in which a general election is held, that term shall be extended until the Monday after January 1 following the next general election following the date when the term would otherwise expire, at which general election a successor shall be elected.

Eighty-eighth, That Section 6 is added to Article XXII, to read:

Sec. 6. Any law enacted at the 1966 First Extraordinary Session of the Legislature and providing for increased compensation for members of the Legislature shall become operative only at the time the 1967 Regular Session of the Legislature is convened. Any such law enacted at the 1966 First Extraordinary Session of the Legislature is not subject to the requirement of Section 4 of Article IV as to passage by a two thirds vote or to the requirement of Section 4 of Article IV that any adjustment of the annual compensation of a member of the Legislature may not

exceed an amount equal to 5 percent for each calendar year following the operative date of the last adjustment, of the salary in effect when the statute is enacted. The provisions of Assembly Bill No. 173 of the 1966 First Extraordinary Session are hereby ratified.

Eighty-ninth, That Section 7 is added to Article XXII, to read:

Sec. 7. To the extent there is a conflict, constitutional amendments adopted by the electors at the November 1966 General Election shall prevail over the provisions transferred from Article IV to Article XIII by Assembly Constitutional Amendment No. 13, adopted by the Legislature at the 1966 First Extraordinary Session.

[Second Resolved Clause]

And be it further resolved, That the Legislature having adopted Assembly Constitutional Amendment No. 90 at its 1965 Regular Session to propose an amendment to portions of Sections 1, 2 and 16 of Article IV of the State Constitution for the sole purpose of requiring the Legislature to reconvene and reconsider measures submitted to the Governor during the last ten days of a general session (Sundays excepted) which he fails to sign, and since said amendment did not propose any other change in the length, duration or scope of general or budget sessions of the Legislature, it is the intent of the Legislature, if both Assembly Constitutional Amendment No. 90 and Assembly Constitutional Amendment (Revision) No. 13, 1966 First Extraordinary Session, are approved by the electors, that both shall be given effect regardless of the vote by which they are approved and that their provisions be construed together so as to give effect to both in the following manner:

First, That subdivision (a) be added to Section 3 of Article IV thereof, to read:

(a) The Legislature shall meet annually in regular session at noon on the Monday after January 1. At the end of each regular session the Legislature shall recess for 30 days. It shall reconvene on the Monday after the 30-day recess, for a period not to exceed 5 days, to reconsider vetoed measures.

A measure introduced at any session may not be deemed pending before the Legislature at any other session.

Second, That Section 4 be added to Article IV thereof, to read:

Sec. 4. Compensation of members of the Legislature, and reimbursement for travel and living expenses in connection with their official duties, shall be prescribed by statute passed by rollcall vote entered in the journal, two thirds of the membership of each house concurring. Commencing with 1967, in any statute enacted making an adjustment of the annual compensation of a member of the Legislature the adjustment may not exceed an amount equal to 5 percent for each calendar year following the operative date of the last adjustment, of the salary in effect when the statute is enacted. Any adjustment in the compensation may not apply until the commencement of the regular session commencing after the next general election following enactment of the statute.

Members of the Legislature shall receive 5 cents per mile for traveling to and from their he in order to attend reconvening following the y recess after a regular session.

The Legislature may not provide retirement benefits based on any portion of a monthly salary in excess of 500 dollars paid to any member of the Legislature unless the member receives the greater amount while serving as a member in the Legislature. The Legislature may, prior to their retirement, limit the retirement benefits payable to members of the Legislature who serve during or after the term commencing in 1967.

When computing the retirement allowance of a member who serves in the Legislature during the term commencing in 1967 or later, allowance may be made for increases in cost of living if so provided by statute, but only with respect to increases in the cost of living occurring after retirement of the member, except that the Legislature may provide that no member shall be deprived of a cost of living adjustment based on a monthly salary of 500 dollars which has accrued prior to the commencement of the 1967 Regular Session of the Legislature.

Third, That subdivision (c) be added to Section 8 of Article IV thereof, to read:

(c) No statute may go into effect until the 61st day after adjournment of the regular session at which the bill was passed, or until the 91st day after adjournment of the special session at which the bill was passed, except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expense the State, and urgency statutes.

Fourth, That subdivision (a) be added to Section 10 of Article IV thereof, to read:

(a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if he signs it. He may veto it by returning it with his objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two thirds of the membership concurring, it becomes a statute. A bill presented to the Governor that is not returned within 12 days becomes a statute. If the 12-day period expires during the recess at the end of a regular session, the bill becomes a statute unless the Governor vetoes it within 30 days from the commencement of the recess. If the Legislature by adjournment of a special session prevents the return of a bill it does not become a statute unless the Governor signs the bill and deposits it in the office of the Secretary of State within 30 days after adjournment.

Fifth, That subdivision (b) be added to Section 23 of Article IV thereof, to read:

(b) A referendum measure may be proposed by presenting to the Secretary of State, within 60 days after adjournment of the regular session at which the statute was passed or within 90 days after adjournment of the special session at which the statute was passed, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for nor at the last gubernatorial election, asking the statute or part of it be submitted to the electors.

Sixth, That the provisions of the second resolved clause of this measure shall become operative only if the amendment to Article IV of the State Constitution proposed by Assembly Constitutional Amendment No. 90 of the 1965 Regular Session are approved by a majority of the electors, in which case subdivision (a) of Section 3, Section 4, subdivision (c) of Section 8, subdivision (a) of Section 10 and subdivision (b) of Section 23 of Article IV of the Constitution, as appearing in the first resolved clause of Assembly Constitutional Amendment (Revision) No. 13, shall not become operative.

1	**PUBLIC RETIREMENT FUNDS. Legislative Constitutional Amendment.** Provides Legislature may authorize investment of moneys of any public pension or retirement fund, except Teachers' Retirement Fund, in stock or shares of any corporation or a diversified management investment company; provided that not to exceed 25% of the assets of the fund may be so invested and there is compliance with specified requirements as to registration of the stock in an exchange, financial condition of the corporation, and the percentage of stock which may be acquired in any one corporation.	**YES**	
		NO	

(This amendment proposed by Assembly Constitutional Amendment No. 57, 1965 Regular Session, expressly amends an existing section of the Constitution, therefore, **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE.**)

PROPOSED AMENDMENT TO ARTICLE XII

SEC. 13. The state shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the state and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when such stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and such holding of such stock shall entitle such holder thereof to all of the rights, powers and privileges, and shall subject such holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which such stock is so held.

Notwithstanding provisions to the contrary in this section and Section 31 of Article IV of this Constitution, the Legislature may authorize the investment of moneys of any public pension or retirement fund other than the fund provided for in Section 13901 of the Education Code, or any successor thereto, not to exceed 25 percent of the assets of such fund determined on the basis of cost in the common stock or shares and not to exceed 5 percent of assets in preferred stock or shares of any corporation provided:

a. Such stock is registered on a national securities exchange, as provided in the "Securities Exchange Act of 1934" as amended, but such registration shall not be required with respect to the following stocks:

1) The common stock of a bank which is a member of the Federal Deposit Insurance Corporation and has capital funds, represented by capital, surplus, and undivided profits, of at least fifty million dollars ($50,000,000);

2) The common stock of an insurance company which has capital funds, represented by capital, special surplus funds, and unassigned surplus, of at least fifty million dollars ($50,000,000);

3) Any preferred stock

b. Such corporation has total assets of at least one hundred million dollars ($100,000,000);

c. Bonds of such corporation, if any are outstanding, qualify for investment under the law governing the investment of the retirement fund, and there are no arrears of dividend payments on its preferred stock;

d. Such corporation has paid a cash dividend on its common stock in at least 8 of the 10 years next preceding the date of investment, and the aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period have been equal to the amount of such dividends paid, and such corporation has paid an earned cash dividend in each of the last 3 years;

e. Such investment in any one company may not exceed 5 percent of the common stock shares outstanding; and

f. No single common stock investment may exceed 2 percent of the assets of the fund, based on cost.

Notwithstanding provisions to the contrary in this section and Section 31 of Article IV of this Constitution, the Legislature may authorize the investment of moneys of any public pension or retirement fund other than the fund provided for in Section 13901 of the Education Code, or any successor thereto, in stock or shares of a diversified management investment company registered under the "Investment Company Act of 1940" which has total assets of at least fifty million dollars ($50,000,000); provided, however, that the total investment in such stocks and shares, together with stocks and shares of all other corporations may not exceed 25 percent of the assets of such fund determined on the basis of the cost of the stocks or shares.

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "8"

Proposed

AMENDMENTS TO CONSTITUTION

PROPOSITIONS AND PROPOSED LAWS

Together With Arguments

To Be Submitted to the Electors
of the State of California at the

GENERAL ELECTION
TUESDAY, NOV. 3, 1970

Compiled by GEORGE H. MURPHY, Legislative Counsel
Distributed by H. P. SULLIVAN, Secretary of State

Argument Against Proposition 15

In 1944, the Legislature and the voters of California approved a constitutional provision which guaranteed that veterans who were public officers or employees before going on active military duty would be reinstated in their jobs upon returning home.

This proposition would remove that protection for veterans from our constitution. It would retain this guarantee in statutory form, thus subject to legislative whimsy, simply in the interest of eliminating excess language.

Constitutional protections for our veterans should not be dealt with so lightly. The purpose of constitutional revision is to eliminate excess verbiage and nothing more. Obviously the constitutional safeguarding of veteran's jobs is not merely excess verbiage.

This proposition actually contains many desirable changes in constitutional language, but unfortunately we as voters cannot separate the good from the bad. We must instead vote simply yes, or no, on the entire package of changes covering thirteen entirely unrelated sections of the constitution.

Constitutional revision is a worthy and much needed project in California. However, many provisions of our current constitution still serve the citizens of California admirably. Protection of the jobs of our returning servicemen should be a basic and irrevocable responsibility of every citizen.

Vote No on Proposition 15, and keep this vital protection in the constitution. We cannot afford to place it solely in the political arena, and leave veteran's protection at the mercy of future legislative action.

VICTOR V. VEYSEY
Assemblyman, 75th District

16	**CONSTITUTIONAL AMENDMENTS. Legislative Constitutional Amendment. Authorizes Legislature, by two-thirds vote, to amend or withdraw a proposed constitutional amendment or revision submitted by it. Provides initiatives, referendums, and legislative proposals take effect day after election, unless measure provides otherwise. Revises procedure for constitutional convention.**	**YES**	
		NO	

(For Full Text of Measure, See Page 17, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to revise provisions of the State Constitution concerning (1) procedures for amending and revising the Constitution, and (2) the effective dates of initiative and referendum measures.

A "No" vote is a vote to reject this revision.

For further details, see below.

Detailed Analysis by the Legislative Counsel

This measure would revise portions of Articles IV and XVIII of the California Constitution. The revision would retain some existing provisions without change and would restate other provisions, some with and some without substantive change. In addition, certain existing provisions would be deleted from the Constitution, thus placing the subject matter of the deleted provisions from then on under legislative control through the enactment of statutes.

Amending and Revising the Constitution and Initiative and Referendum Measures

Generally, Sections 22 and 24 of Article IV and Article XVIII of the Constitution now provide:

(1) Constitutional amendments may be proposed for submission to the voters (a) by the Legislature and (b) by electors through the initiative process. Revision of the Constitution may be proposed by the Legislature.

(2) If provisions of two or more amendments proposed by initiative or referendum measures approved at the same election conflict, the provisions of the measure receiving the highest affirmative vote prevail. There is no such express provision regarding amendments proposed by the Legislature.

(3) The Legislature by two-thirds vote may submit to the voters the proposition as to whether to call a convention to revise the Constitution. If the proposition is approved by a majority of those voting on it, the Legislature at its next session must provide by law for the calling of a convention consisting of delegates (not to exceed the number of legislators) who are to be chosen in the same manner and to have the same qualifications as legislators. Delegates are required to meet within three months of their election.

The revision would retain the general substance of these provisions with the following major changes:

(1) A new provision would be added specifically authorizing the Legislature, by a two-thirds vote of the membership of each house, to amend or withdraw a constitutional amendment or revision which the Legislature has

proposed where the action is taken before the proposal has been voted on by the electorate.

(2) (a) The general requirement that the Legislature provide for the constitutional convention at the session following the voters' approval of the proposition authorizing the convention would be replaced with a requirement that the Legislature provide for the convention within six months after the voters' approval.

(b) The existing constitutional limitations on the number of elected delegates to a constitutional convention and the requirement that they have the same qualifications and be chosen in the same manner as legislators would be deleted. A requirement would be added that the delegates, each of whom must be a voter, be elected from districts as nearly equal in population as may be practicable.

(c) The existing constitutional requirement that the delegates meet within three months after their election would be deleted.

(3) A provision would be added that if two or more measures amending or revising the Constitution are approved by the voters at the same election and they conflict, the provisions of the measure receiving the highest affirmative vote shall prevail. Thus, no distinction would be made in the Constitution between amendments proposed by the Legislature and by initiative measures.

(4) Provisions prescribing detailed procedures for submitting to the voters, revisions proposed by the constitutional convention and for certifying the results of the election, would be deleted.

Effective Date of Ballot Measures

Section 24 of Article IV of the Constitution now provides that an initiative or referendum measure takes effect five days after the official declaration of vote by the Secretary of State, unless the measure provides otherwise, while the constitutional amendments and revisions submitted by the Legislature take effect upon approval by the voters, unless the measures provide otherwise.

Under the revision the provision for the effective date of all ballot measures would be the same, no matter how the ballot measures originated. Each ballot measure would become effective the day after the election at which it is approved, unless the measure provides otherwise.

Argument in Favor of Proposition 16

This proposition should be approved by the voters because it will improve our Constitution.

Existing Article XVIII contains lengthy arrangements for constitutional conventions even though we have not had a convention since 1879. A YES vote removes this un procedural material but requires the L lature to provide for a convention when requested by a majority of the voters.

A YES vote on Proposition 16 assures that convention delegates will be elected from districts "as nearly equal in population as may be practicable . . .", which the present Constitution does not do. The revision also specifies the same effective date of constitutional amendments, whether proposed by the Legislature or initiative, which the existing provision fails to do.

A YES vote will allow the Legislature to correct errors found in its proposed amendments, before submitting such proposals to the voters. Existing provisions require that a proposal be presented to the electorate exactly as first adopted by the Legislature, even though it contains errors the Legislature wishes to correct before it goes on the Ballot. A YES vote also requires that a call for a constitutional convention be by a roll call vote.

No opposition to the provisions of this Proposition was expressed before the Legislature or the Constitution Revision Commission.

DAVID A. ROBERTI
Member of the Assembly,
48th District

JUDGE BRUCE W. SUMNER
Chairman, California Constitution
Revision Commission

Argument Against Proposition 16

Proposition 16 removes valuable procedural safeguards for constitutional conventions from our Constitution. The present Constitution guarantees that all the delegates to a convention shall be elected "in the same manner" and have the same qualifications as Legislators. In addition, the number of delegates must equal the number of members in the Legislature. These provisions guarantee that the delegates to the convention shall be at least as qualified as Legislators and that their selection shall be by familiar and orderly election, rather tha allowing selection of delegates according to the whims of the times. This procedure protects the convention process from possible abuse by delegates who represent a very vocal minority at the time delegates are selected. Furthermore, the limit on number of delegates keeps the convention at a workable size.

Although these procedures take up but a few lines of constitutional language, the proponents of this measure argue that they should be deleted because they have been "unused" since 1879. However, cons' tional conventions are very rare events. fact does not justify the elimination of those procedural safeguards which guarantee that

convention shall be initiated in an orderly manner.

Once again the proponents of constitutional revision have made policy changes in their recommendations although the purpose of revision was simply to reduce the length and wordiness of the Constitution. The voters are seldom aware of these changes since the revision proposal is billed as a "package" rather than on an issue by issue basis. This is a slovenly manner of changing our fundamental law.

This proposal should be rejected since it deletes basic constitutional protections. I urge you to vote "NO".

FLOYD L. WAKEFIELD
Assemblyman, 52nd District

17	**PARTIAL CONSTITUTIONAL REVISION.** Legislative Constitutional Amendment. Repeals obsolete provisions relating to social welfare.	**YES**	
		NO	

(For Full Text of Measure See Page 18, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to eliminate from the Constitution an obsolete provision that repealed provisions relating to the administration of the aid to the blind and aged programs.

A "No" vote on this measure is a vote to retain in the Constitution the obsolete provision that repealed provisions relating to the administration of the aid to the blind and aged programs.

For further details, see below.

Detailed Analysis by the Legislative Counsel

Article XXVII of the Constitution repealed former Article XXV of the Constitution, relating to state administration of the aged and blind aid programs. Since Article XXVII has accomplished its purpose by repealing Article XXV, it is now obsolete. This measure would eliminate this obsolete provision from the Constitution.

Argument in Favor of Proposition 17

Proposition 17 is a recommendation of both Houses of the Legislature and the California Constitution Revision Commission. Proposition 17 deletes Article XXVII from the California Constitution. Article XXVII was enacted in 1948 solely to repeal Article XXV. Since its purpose has been accomplished Article XXVII is obsolete and there is no need to retain it in the Constitution. By deleting Article XXVII, Article XXV is not reinstated.

A YES vote therefore helps to rid our State Constitution of this obsolete and wholly unnecessary language.

No opposition to this recommendation for deletion was expressed before the Legislature or the California Constitution Revision Commission.

PAUL PRIOLO
Member of the Assembly
60th District

JUDGE BRUCE W. SUMNER
Chairman, California Constitution
Revision Commission

Argument Against Proposition 17

Placing this measure on the ballot as a separate issue taxes the voter's patience and tax dollar.

The sole purpose of this measure is to repeal a constitutional provision which, itself, repealed another section of the Constitution. While it may be desirable to eliminate obsolete portions of the Constitution in the revision process, clean-up measures such as this one should be included as a part of other revision proposals. There are already many complex propositions on the statewide ballot for the people to read and consider. Making a separate issue out of an inconsequential and highly technical measure such as this could lead to further difficulty and confusion in interpretation.

In addition, the entire process of placing measures on the ballot involves considerable expense. Propositions must first be adopted through a lengthy and complex legislative process and then are submitted to the people as part of a statewide election, involving all of the costs of ballot composition and printing. Obviously, this procedure consumes considerable time and money. Such expense is justifiable when the measure makes important constitutional changes; however, this measure is purely technical in nature.

The proponents of constitutional revision should pay closer attention to the interests of the taxpayer in presenting their proposals for reform.

LARRY TOWNSEND
Assemblyman
67th District

PART II—APPENDIX

FOR THE CLEAN WATER BOND LAW OF 1970. This act provides for a bond issue of two hundred fifty million dollars ($250,000,000) to provide funds for water pollution control. **1**	
AGAINST THE CLEAN WATER BOND LAW OF 1970. This act provides for a bond issue of two hundred fifty million dollars ($250,000,000) to provide funds for water pollution control.	

This law proposed by AB 1456 (Ch. 508), by act of the Legislature passed at the 1970 Regular Session, is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

(This proposed law does not expressly amend any existing law; therefore, the provisions thereof are printed in **BOLDFACE TYPE** to indicate that they are **NEW**.)

PROPOSED LAW

Section 1. Chapter 13 (commencing with Section 13970) is added to Division 7 of the Water Code, to read:

Chapter 13. Clean Water Bond Law of 1970

13970. This chapter may be cited as the Clean Water Bond Law of 1970.

13971. The Legislature hereby finds and declares that clean water, which fosters the health of the people, the beauty of their environment, the expansion of industry and agriculture, the enhancement of fish and wildlife, the improvement of recreational facilities and the provision of pure drinking water at a reasonable cost, is an essential public need. Although the State of California is endowed with abundant lakes and ponds, streams and rivers, and hundreds of miles of shoreline, as well as large quantities of underground water, these vast water resources are threatened by pollution, which, if not checked, will impede the state's economic, community and social growth. The chief cause of pollution is the discharge of inadequately treated waste into the waters of the state. Many public agencies have not met the demands for adequate waste treatment or the control of water pollution because of inadequate financial resources and other responsibilities. Increasing population accompanied by accelerating urbanization, growing demands for water of high quality, rising costs of construction and technological changes mean that unless the state acts now t[illegible]eeds may soar beyond the means avail[illegible]or public finance. Meeting these needs is a proper purpose of the federal, state and local governments. Local agencies, by reason of their closeness to the problem, should continue to have primary responsibility for construction, operation and maintenance of the facilities necessary to cleanse our waters. Since water pollution knows no political boundaries and since the cost of eliminating the existing backlog of needed facilities and of providing additional facilities for future needs will be beyond the ability of local agencies to pay, the state, to meet its responsibility to protect and promote the health, safety and welfare of the inhabitants of the state, should assist in the financing. The federal government is contributing to the cost of control of water pollution, and just provision should be made to cooperate with the United States of America. It is the intent of this chapter to provide necessary funds to insure the full participation by the state under the provisions of Section 8 of the Federal Water Pollution Control Act (33 U.S.C. 466 et seq.) and acts amendatory thereof or supplementary thereto.

13972. The State General Obligation Bond Law is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full in this chapter except that notwithstanding anything in the State General Obligation Bond Law, the bonds authorized hereunder shall bear such rates of interest, or maximum rates, as may from time to time be fixed by the State Treasurer, with the approval of the committee, and the maximum maturity of the bonds shall not exceed 50 years from the date of the bonds, or from the date of each respective series. The maturity of each respective series shall be calculated from the date of such series.

13973. As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:

(a) "Committee" means the Clean Water Finance Committee, created by Section 13974.

(b) "Board" means the State Water Resources Control Board.

C	ITUTIONAL AMENDMENTS. Legislative Constitutional Amendment. Authorizes Legislature, by two-thirds vote, to amend or withdraw a proposed constitutional amendment or revision submitted by it. Provides initiatives, referendums, and legislative proposals take effect day after election, unless measure provides otherwise. Revises procedure for constitutional convention.	YES	
16		NO	

(This amendment proposed by Assembly Constitutional Amendment No. 67, 1970 Regular Session, expressly amends an existing section of the Constitution, repeals an existing article thereof, and adds a new article thereto; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** or **REPEALED** are printed in ~~STRIKEOUT TYPE~~; and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BOLDFACE TYPE.**)

PROPOSED AMENDMENTS TO ARTICLES IV AND XVIII

First—That subdivision (a) of Section 24 of Article IV is amended to read:

SEC. 24. (a) An initiative statute or referendum ~~measure~~ approved by a majority of ~~the~~ votes thereon takes effect ~~5 days after the date of the official declaration of the vote by the Secretary of State~~ **the day after the elec**ti- nless the measure provides otherwise. I ferendum petition is filed against a part of a statute the remainder ~~of the statute~~ shall not be delayed from going into effect.

Second—That Article XVIII is repealed.

~~ARTICLE XVIII~~

~~AMENDING AND REVISING THE CONSTITUTION~~

~~SECTION 1. Any amendment or amendments to, or revision of, this Constitution may be proposed in the Senate or Assembly, and if two-thirds of all the members elected to each of the two houses shall vote in favor thereof, such proposed amendment, amendments, or revision shall be entered in their Journals, with the yeas and nays taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment, amendments, or revision to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, or such revision, by a majority of the qualified electors voting thereon such amendment or amendments shall become a part of th- constitution, and such revision shall be t constitution of the State of California o become a part of the Constitution if the measure revises only a part of the Constitution.~~

~~SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall deem it necessary to revise this Constitution, they shall recommend to the electors to vote at the next general election for or against a Convention for that purpose, and if a majority of the electors voting at such election on the proposition for a Convention shall vote in favor thereof, the Legislature shall, at its next session, provide by law for calling the same. The Convention shall consist of a number of delegates not to exceed that of both branches of the Legislature, who shall be chosen in the same manner, and have the same qualifications, as members of the Legislature. The delegates so elected shall meet within three months after their election at such place as the Legislature may direct. At a special election to be provided for by law, the Constitution that may be agreed upon by such Convention shall be submitted to the people for their ratification or rejection, in such manner as the Convention may determine. The returns of such election shall, in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State, and compare the returns so certified to him; and it shall be the duty of the Executive to declare, by his proclamation, such Constitution, as may have been ratified by a majority of all the votes cast at such special election, to be the Constitution of the State of California.~~

Third—That Article XVIII is added, to read:

ARTICLE XVIII
AMENDING AND REVISING THE CONSTITUTION

SEC. 1. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may propose an amendment or revision of the Constitution and in the same manner may amend or withdraw its proposal. Each amendment shall be so prepared and submitted that it can be voted on separately.

SEC. 2. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may submit at a general election the question whether to call a convention to revise the Constitution. If the majority vote yes on that question, within 6 months the Legislature shall provide for the convention. Dele-

gates to a constitutional convention shall be voters elected from districts as nearly equal in population as may be practicable.

Sec. 3. The electors may amend the Constitution by initiative.

Sec. 4. A proposed amendment or revision shall be submitted to the electors and if approved by a majority of votes [illegible] takes effect the day after the election unless the measure provides otherwise. If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

PARTIAL CONSTITUTIONAL REVISION.

17 Legislative Constitutional Amendment. Repeals obsolete provisions relating to social welfare.

YES	
NO	

(This amendment proposed by Assembly Constitutional Amendment No. 66, 1970 Regular Session, expressly repeals an existing article of the Constitution; therefore, **EXISTING PROVISIONS** proposed to be **REPEALED** are printed in ~~STRIKEOUT TYPE~~.)

PROPOSED REPEAL OF ARTICLE XXVII

~~ARTICLE XXVII~~

~~REPEAL OF ARTICLE XXV OLD AGE SECURITY AND SECURITY FOR THE BLIND~~

~~SECTION 1. Article XXV of amendment to the Constitution of the State of California is hereby repealed.~~

~~SEC. 2. All provisions of this Constitution which were repealed by Article XXV of amendment to this Constitution because they were in conflict therewith, if any, are hereby re-enacted, revived and declared to be fully and completely effective.~~

~~SEC. 3. (a) All laws which were repealed by Article XXV of amendment to this Constitution because they were in conflict therewith are hereby re-enacted, revived and declared to be fully and completely effective.~~

~~(b) All of the provisions of Chapters 1, 2, and 3 of Division III of the Welfare and Institutions Code of the State of California relating to Old Age Security and Chapters 1, 2, and 3 of Part 1 of Division V of the Welfare and Institutions Code of the State of California relating to Aid to Blind as in effect at the time of the passage of Article XXV of amendment to the Constitution of the State of California are hereby re-enacted, revived and declared to be fully and completely effective.~~

~~(c) Nothing contained in paragraph (b) of this section shall be construed to limit in any way the provisions contained in paragraph (a) of this section.~~

~~(d) All of the laws re-enacted, revived and declared to be fully and completely effective by this section may, at any time, be amended or repealed by the Legislature.~~

~~SEC. 5. If this article is adopted by the people, it shall take effect five days after the date of the official declaration of the vote by the Secretary of State and become operative upon the first day of the third month following the last day of the month in which occurs the date of the official declaration of the vote.~~

~~Until this article becomes both effective and operative the provisions of Article XXV of Amendment to this Constitution as in effect prior to the effective date of this article shall remain operative.~~

~~SEC. 6. If any portion, section or clause of this article shall for any reason be declared unconstitutional or invalid, such declaration or adjudication shall not affect the remainder of this article.~~

CERTIFICATE OF SECRETARY OF STATE

State of California, Department of State
Sacramento, California

I, H. P. Sullivan, Secretary of State of the State of California, do hereby certify that the foregoing measures will be submitted to the electors of the State of California at the GENERAL ELECTION to be held throughout the State on November 3, 1970, and that the foregoing pamphlet is correct.

Witness my hand and the Great Seal of the State, at office in Sacramento, California, the seventeenth day of August, 1970.

H. P. Sullivan

SECRETARY OF STATE

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Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "9"

Proposed

AMENDMENTS TO CONSTITUTION

PROPOSITIONS AND PROPOSED LAWS

Together With Arguments

(Arguments in support or opposition of the proposed laws are opinions of the authors)

GENERAL ELECTION

Tuesday, November 7, 1972

Compiled by GEORGE H. MURPHY, Legislative Counsel
Distributed by EDMUND G. BROWN Jr., Secretary of State

Detailed Analysis by the Legislative Counsel

(Continued from page 25, column 1)

who qualify under the law, from a maximum of $5,000 to a maximum of $10,000. A "blind veteran" is defined as one who is blind in both eyes with a visual acuity of 5/200 or less by reason of a permanent and total service-connected disability incurred in the service.

Conflicting Measures

The authority granted by this measure would conflict with the limitations proposed by Proposition 14. If both are approved the one receiving the highest vote will prevail.

Statutes Contingent Upon Adoption of Above Measure

If this measure is approved by the vc Chapter 533 of the Statutes of 1972 amend Section 205.7 of the Revenue and Taxation Code to grant the exemption for the homes of blind veterans in the amount of $10,000, rather than $5,000. Chapter 533 does not amend Section 205.8 of the Revenue and Taxation Code, and the exemption for homes of blind veterans owned by corporations will remain at $5,000.

The text of Chapter 533 of the Statutes of 1972 is on record in the office of the Secretary of State in Sacramento and will be contained in the 1972 published statutes.

Argument in Favor of Proposition 10

Proposition No. 10 amends Section 1¼b of Article XIII of the Constitution (Taxation) to increase the maximum property tax exemption for permanent and total service-connected blind veterans from $5,000 to $10,000.

The present section providing exemption for blind veterans was added to the State Constitution in 1966 (Proposition 9). Ballot arguments indicated the purpose of the addition was to bring blind veterans' exemption in line with paraplegic veterans' exemption. Arguments pointed out that only about 40 persons would benefit from the $5,000 exemption.

A 1970 amendment extended the exemption to blind veterans who live in cooperative housing projects. It also raised the exemption for paraplegics to $10,000. Proposition No. 10 once again seeks to conform the two exemptions so that blind veterans will receive the same $10,000 exemption accorded paraplegics.

The Board of Equalization estimates that today about 1,000 veterans take advantage of the paraplegic exemption and blind exemption.

We urge a favorable vote on this Proposition.

CLARK L. BRADLEY
State Senator, 14th District
JOHN STULL
Assemblyman, 80th Dis

11 **RIGHT OF PRIVACY. Legislative Constitutional Amendment.** Adds right of privacy to inalienable rights of people. Financial impact: None.

YES	
NO	

(For Full Text of Measure, See Page 11, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to amend the Constitution to include the right of privacy among the inalienable rights set forth therein.

A "No" vote is a vote against specifying the right of privacy as an inalienable right.

For further details, see below.

Detailed Analysis by the Legislative Counsel

The Constitution now provides that all men are by nature free and independent, and have certain inalienable rights, among which

(Continued in column 2)

Cost Analysis by the Legislative Analyst

The right to privacy, which this initiative adds to other existing enumerated constitutional rights, does not involve any significant fiscal considerations.

(Continued from column 1)

are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

This measure, if adopted, would revise the language of this section to list the right of privacy as one of the inalienable rights. It would also make a technical nonsubstantive change in that the reference to "men" in the section would be changed to "people."

Argument in Favor of Proposition 11

The proliferation of government snooping and data collecting is threatening to destroy our traditional freedoms. Government agencies seem to be competing to compile the most extensive sets of dossiers of American citizens. Computerization of records makes it possible to create "cradle-to-grave" profiles on every American.

At present there are no effective restraints on the information activities of govern' and business. This amendment creates a . and enforceable right of privacy for every. Californian.

The right of privacy is the right to be left alone. It is a fundamental and compelling interest. It protects our homes, our families, our thoughts, our emotions, our expressions, our personalities, our freedom of communion, and our freedom to associate with the people we choose. It prevents government and business interests from collecting and stockpiling unnecessary information about us and from misusing information gathered for one purpose in order to serve other purposes or to embarrass us.

Fundamental to our privacy is the ability to control circulation of personal information. This is essential to social relationships and personal freedom. The proliferation of government and business records over which we have no control limits our ability to control our personal lives. Often we do not know that these records even exist and we are certainly unable to determine who has access to them.

Even more dangerous is the loss of control over the accuracy of government and business records on individuals. Obviously, if the person is unaware of the record, he or she cannot review the file and correct inevitable mistakes. Even if the existence of this information is known, few government agencies or private businesses permit individuals to review their files and correct errors.

The average citizen also does not have control over what information is collected about him. Much is secretly collected. We are required to report some information, regardless of our wishes for privacy or our belief that there is no public need for the information. Each time we apply for a credit card or a life insurance policy, file a tax return, interview for a job, or get a drivers' license, a dossier is opened and an informational profile is sketched. Modern technology is capable of monitoring, centralizing and computerizing this information which eliminates any possibility of individual privacy.

The right of privacy is an important American heritage and essential to the fundamental rights guaranteed by the First, Third, Fourth, Fifth and Ninth Amendments to the U.S. Constitution. This right should be abridged only when there is compelling public need. Some information may remain as designated public records but only when the availability of such information is clearly in the public interest.

Proposition 11 also guarantees that the right of privacy and our other constitutional freedoms extend to all persons by amending Article I and substituting the term "people" for "men". There should be no ambiguity about whether our constitutional freedoms are for every man, woman and child in this state.

KENNETH CORY
Assemblyman, 69th District
GEORGE R. MOSCONE
State Senator, 10th District

Rebuttal to Argument in Favor of Proposition 11

To say that there are at present no effective restraints on the information activities of government and business is simply untrue. In addition to literally hundreds of laws restricting what use can be made of information, every law student knows that the courts have long protected privacy as one of the rights of our citizens.

Certainly, when we apply for credit cards, life insurance policies, drivers' licenses, file tax returns or give business interviews, it is absolutely essential that we furnish certain personal information. Proposition 11 does not mean that we will no longer have to furnish it and provides no protection as to the use of the information that the Legislature cannot give if it so desires.

What Proposition 11 can and will do is to make far more difficult what is already difficult enough under present law, investigating and finding out whether persons receiving aid from various government programs are truly needy or merely using welfare to augment their income.

Proposition 11 can only be an open invitation to welfare fraud and tax evasion and for this reason should be defeated.

JAMES E. WHETMORE
State Senator, 35th District

Argument Against Proposition 11

Proposition 11, which adds the word "privacy" to a list of "inalienable rights" already enumerated in the Constitution, should be defeated for several reasons.

To begin with, the present Constitution states that there are certain inalienable rights "among which are those" that it lists. Thus, our Constitution does not attempt to list all of the inalienable rights nor as a practical matter, could it do so. It has always been recognized by the law and the courts that privacy is one of the rights we have, particularly in the enjoyment of home and personal activities. So, in the first place, the amendment is completely unnecessary.

For many years it has been agreed by scholars and attorneys that it would be advantageous to remove much unnecessary wordage from the Constitution, and at present we are spending a great deal of money to finance a Constitution Revision Commission which is working to do this. Its work presently is incomplete and we should not begin to lengthen our Constitution and to amend it piecemeal until at least the Commission has had a chance to finish its work.

The most important reason why this amendment should be defeated, however, lies in an area where possibly privacy should not be completely guaranteed. Most government welfare programs are an attempt by California's more fortunate citizens to assist those who are less fortunate; thus, today, millions of persons are the beneficiaries

of government programs, based on the need of the recipient, which in turn can only be judged by his revealing his income, assets and general ability to provide for himself.

If a person on welfare has his privacy protected to the point where he need not reveal his assets and outside income, for example, how could it be determined whether he should be given welfare at all?

Suppose a person owned a house worth $100,000 and earned $50,000 a year from the operation of a business, but had his privacy protected to the point that he did not have to reveal any of this, and thus qualified for and received welfare payments. Would this be fair either to the taxpayers who pay for welfare or the truly needy who would be deprived of part of their grant because of what the wealthy person was receiving?

Our government is helping many people who really need and deserve the help. Making privacy an inalienable right could only bring chaos to all government benefit programs, thus depriving all of us, including those who need the help most.

And so because it is unnecessary, interferes with the work presently being done by the Constitution Revision Commission and would emasculate all government programs based on recipient need, I urge a "no" vote on Proposition 11.

JAMES E. WHETMORE
State Senator, 35th District

Rebuttal to Argument Against Proposition 11

The right to privacy is much more "unnecessary wordage". It is fundamental in any free society. Privacy is not now guaranteed by our State Constitution. This simple amendment will extend various court decisions on privacy to insure protection of our basic rights.

The work of the Constitution Revision Commission cannot be destroyed by adding two words to the State Constitution. The Legislature actually followed the Commission's guidelines in drafting Proposition 11 by keeping the change simple and to the point. Of all the proposed constitutional amendments before you, this is the simplest, the most understandable, and one of the most important.

The right to privacy will not destroy welfare nor undermine any important government program. It is limited by "compelling public necessity" and the public's need to know. Proposition 11 will not prevent the government from collecting any information it legitimately needs. It will only prevent misuse of this information for unauthorized purposes and preclude the collection of extraneous or frivolous information.

KENNETH CORY
Assemblyman, 69th Distr.

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12 **DISABLED VETERANS TAX EXEMPTION. Legislative Constitutional Amendment.** Permits Legislature to extend disabled veterans tax exemption to totally disabled persons suffering service-connected loss of both arms, loss of arm and leg, or blindness in both eyes and loss of either arm or leg. Extends exemption to either surviving spouse. Financial impact: Nominal decrease in local government revenues.

YES	
NO	

(For Full Text of Measure, See Page 11, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this legislative constitutional amendment is a vote to authorize the Legislature to exempt from property taxation, up to $10,000 of the value of homes of qualified veterans (1) who have lost, or lost the use of, both arms; or (2) are blind and have lost, or lost the use of, one leg or one arm; or (3) have lost, or lost the use of, one arm and one leg.

A "No" vote is a vote to continue the authorization only as to homes of veterans who have lost, or lost the use of, both legs.

For further details, see below.

Detailed Analysis by the Legislative Counsel

The Constitution now authorizes the Legislature to exempt up to $10,000 of the assessed value of the home of each qualified

(Continued on page 29, column 1)

Cost Analysis by the Legislative Analyst

The California Constitution presently authorizes the Legislature to exempt from property taxation the home of any resident of this state who, as a result of military or naval service, has lost the use of both legs. The constitution limits this exemption to a maximum of $10,000 of assessed value and restricts the exemption to veterans who have received assistance from the federal government in the acquisition of a home. This exemption for disabled veterans—unlike the $1,000 exemption for other veterans—is available regardless of the amount of the claimant's assets.

This constitutional amendment authorizes the Legislature to extend this $10,000 exemption to the following:

(1) Veterans who have lost the use of both arms.

(Continued on page 29, column 2)

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "10"

California Voters Pamphlet

General Election November 5, 1974

Compiled by Edmund G. Brown Jr.
Secretary of State

Analyses by A. Alan Post
Legislative Analyst

7 DECLARATION OF RIGHTS

Ballot Title

DECLARATION OF RIGHTS. LEGISLATIVE CONSTITUTIONAL AMENDMENT. Reorganizes and substantively amends various provisions of Article I and relocates portions of Articles IV and XX of California Constitution. Amendments include, among others, right to interpreter at state expense for criminal defendant who cannot understand English, provision that court may grant release on own recognizance, provision that property rights of noncitizens to be the same as for citizens, and revision of eminent domain provisions. Deletes, among others, provisions respecting criminal libel actions, provisions regarding right to sell or rent real property, provisions concerning acquisition of lands for public improvements. Financial impact: No increase in government costs.

FINAL VOTE CAST BY LEGISLATURE ON ACA 60 (PROPOSITION 7):

ASSEMBLY—Ayes, 57 Noes, 16

SENATE—Ayes, 27 Noes, 4

Analysis by Legislative Analyst

PROPOSAL:

This proposition revises Article I of the State Constitution, which declares the fundamental rights of the people of the state. The proposition (1) deletes obsolete provisions, (2) clarifies existing law, (3) puts into the Constitution some rights which now exist in the federal Constitution, (4) defines the rights of those charged with crime, (5) authorizes the Legislature to revise eminent domain and grand jury proceedings, and (6) deletes material suitable for statutory enactment.

Obsolete Provisions Deleted. The proposition deletes two provisions from the California Constitution because the United States Supreme Court has found they conflict with the federal Constitution. One provision relates to trial court procedure when a person accused of a crime chooses not to testify on his own behalf. The other provision relates to discrimination in real estate transactions.

Clarification of Existing Law. First, the proposition says the noncitizens have the same property rights in California as citizens. Second, the proposition says that rights guaranteed by the State Constitution are not dependent on those guaranteed by the federal Constitution.

Federal Rights in State Constitution. The proposition puts the following three rights into the State Constitution. These rights presently are contained in the federal Constitution.

(a) The Legislature shall make no law respecting the establishment of religion.

(b) A person may not be deprived of life, liberty, or property without due process of law.

(c) A person may not be denied equal protection of the laws.

Rights of Persons Accused of Crime. Presently the State Constitution gives specific rights to persons accused of crime. This proposition adds the following:

(1) The accused person has the right to be confronted with the witnesses against him.

(2) The accused person has a right to have the assistance of a lawyer.

(3) The accused person has a right to be personally present with a lawyer at the trial.

(4) If the accused person does not understand English, he has the right to an interpreter.

(5) Instead of being released on bail prior to trial, the accused person may be released on his or her own recognizance at the discretion of the court.

These rights already exist either in the United States Constitution or in present law. The amendment makes them part of the California Constitution.

Revision of Eminent Domain Procedure. If a state or local government takes real property for public use, the owner of the property has a right to be compensated. If the owner of the property and the government disagree over the proper amount of compensation, the dispute is settled by a trial.

Presently, the government may take possession of the property before the trial takes place by depositing money with the court as security for payment. The court decides how much the security deposit must be. This procedure is called "immediate possession."

The present Constitution limits the power to take immediate possession to specified governments, in specified circumstances, and for specified uses. This proposition will allow the Legislature to determine when immediate possession may take place, and who may act as a condemnor.

Grand Juries. Presently the Constitution requires each county to summon a grand jury once each year. Without changing that requirement, this proposition allows the Legislature to provide for summoning more than one grand jury each year.

Deletion of Material Suited for Statutory Enactment. The proposition deletes from the Constitution (a) detailed rules of criminal indictment procedure and (b) detailed rules of procedure in criminal prosecutions for libel.

FISCAL EFFECT:

This proposition does not increase government costs.

This amendment proposed by Assembly Constitutional Amendment 60 (Statutes of 1974, Resolution Chapter 90) expressly amends existing articles of the Constitution by amending and repealing various sections thereof and adding sections thereto. Therefore, the provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENTS TO ARTICLES I, IV, AND XX

First—That Section 1 of Article I be repealed.

~~SECTION 1. All people are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety, happiness, and privacy.~~

Second—That Section 1 of Article I be added, to read:

SECTION 1. All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

Third—That Section 2 of Article I be repealed.

~~SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.~~

Fourth—That Section 2 of Article I be added, to read:

SEC. 2. Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.

Fifth—That Section 3 of Article I be added, to read:

SEC. 3. The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.

Sixth—That Section 4 of Article I be repealed.

~~SEC. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this State; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.~~

Seventh—That Section 4 of Article I be added, to read:

SEC. 4. Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion.

A person is not incompetent to be a witness or juror because of his or her opinions on religious beliefs.

Eighth—That Section 5 of Article I be repealed.

~~SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require its suspension.~~

Ninth—That Section 5 of Article I be added, to read:

SEC. 5. The military is subordinate to civil power. A standing army may not be maintained in peacetime. Soldiers may not be quartered in any house in wartime except as prescribed by law, or in peacetime without the owner's consent.

Tenth—That Section 6 of Article I be repealed.

~~SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.~~

Eleventh—That Section 6 of Article I be added, to read:

SEC. 6. Slavery is prohibited. Involuntary servitude is prohibited except to punish crime.

Twelfth—That Section 7 of Article I be repealed.

~~SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three-fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, by the consent of both parties, expressed in open court by the defendant and his counsel, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open court.~~

Thirteenth—That Section 7 of Article I be added, to read:

SEC. 7. (a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws.

(b) A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. Privileges or immunities granted by the Legislature may be altered or revoked.

Fourteenth—That Section 8 of Article I be repealed.

~~SEC. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. When a defendant is charged with the commission of a felony, by a written complaint subscribed under oath and on file in a court within the county in which the felony is triable, he shall, without unnecessary delay, be taken before a magistrate of such court. The magistrate shall immediately deliver to him a copy of the complaint, inform him of his right to the aid of counsel, ask him if he desires the aid of counsel, and allow him a reasonable time to send for counsel; and the magistrate must, upon the request of the defendant, require a peace officer to take a message to any counsel whom the defendant may name, in the city or township in which the court is situated. If the felony charged is not punishable with death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him whether he pleads guilty or not guilty to the offense charged therein; thereupon, or at any time thereafter while the charge remains pending before the magistrate and when his counsel is present, the defendant may, with the consent of the magistrate and the district attorney or other counsel for the people, plead guilty to the offense charged or to any other offense the commission of which is necessarily included in that with which he is charged, or to an attempt to commit the offense charged; and upon such plea of guilty, the magistrate shall immediately commit the defendant to the sheriff and certify the case, including a copy of all proceedings therein and such testimony as in his discretion he may require to be taken, to the superior court, and thereupon such proceedings shall be had as if such defendant had pleaded guilty in such court.~~

~~The foregoing provisions of this section shall be self-executing. The Legislature may prescribe such procedure in cases herein provided for as is not inconsistent herewith. In cases not hereinabove provided~~

Continued on page 70

7 Declaration of Rights

Argument in Favor of Proposition 7

YOUR BILL OF RIGHTS

Proposition 7 contains most of the recommendations of the California Constitution Revision Commission for Article I. This proposal was adopted by the Legislature after 4 years of study and consideration in Committee and after answering the questions of all the individuals and organizations concerned with California's "Declaration of Rights" Article.

There is no known opposition to Proposition 7.

STRENGTHENS YOUR INDIVIDUAL RIGHTS

Proposition 7 revises Article I of the California Constitution by removing material that has been declared unconstitutional, or is not of constitutional importance. Proposition 7 contains all rights presently enjoyed by Californians and places in our State Constitution some of the rights enjoyed by Californians as citizens of the United States, but which are not presently in our State Constitution. For example, Proposition 7 adds to our Constitution the right of all Californians to due process of law, the right in a criminal proceeding to be confronted with witnesses, and a prohibition against the State's "establishment of religion". These rights and safeguards are not presently in the California Constitution, but should be.

VOTE "YES"

A "yes" vote will help modernize and shorten California's Constitution. It will help finish Constitution Revision which has been in process for nearly 10 years. Make sure that your rights are clearly and strongly stated. Join the many groups who support this revision of an important article of the Constitution. The organizations presently endorsing Proposition 7 include the League of Women Voters, both Houses of the State Legislature and other organizations and individuals interested in the protection of our society and the civil rights of all Californians.

Join us in a YES vote for better government.

JUDGE BRUCE SUMNER
Chairman, Constitution Revision Commission

KEN MEADE
Assemblyman, 16th District

ALAN ROBBINS
Senator, 22nd District

Rebuttal to Argument in Favor of Proposition 7

Though Proposition 7 streamlines some portions of our State Constitution, all rights enjoyed in the Federal Constitution are enjoyed by California citizens already since the Federal Constitution takes precedence over our State Constitution in all areas where they may conflict.

Because a court in California rules that a portion of the Constitution voted by the People is unconstitutional seems peculiar. The People have a right through their power of the vote to amend the Constitution.

Because a judge at a particular time says a part is unconstitutional does not preclude another judge or court from reversing the previous decision.

The controversial parts of this proposition should be separated from the noncontroversial, technical parts and presented separately for the voters.

A No vote is urged on this proposition.

ROBERT C. CLINE
Assemblyman, 64th District

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

Argument Against Proposition 7

Though the California Constitution appears to be long, it has been a thorough, workable document. Extensive revisions proposed in the past have been rejected by the People of California.

This proposal will remove the part of the Constitution voted for by the People to protect their right to sell private property to whomever they choose. Though the State Supreme Court invalidated this section, a new Court could reverse that position.

Let's not tamper with this section voted for by a 2-1 margin by the People. Many of the 49 changes proposed are technical and renumbering of existing sections. However, these should be voted separately.

Vote No on this proposition.

ROBERT C. CLINE
Assemblyman, 64th District

Rebuttal to Argument Against Proposition 7

The only argument that the opponents of this measure can present is that the people should keep in the constitution material declared unconstitutional years ago, not just by the California Supreme Court, but also by the United States Supreme Court.

Sounds ridiculous? It is.

California's history shows that its citizens have the capacity to grow. It also points out that we have made mistakes in the past like the internment of our Japanese nerican citizens and attempts to "keep the Okies out". ıes, we have even placed in our constitution provisions that "no corporation now existing or hereafter formed under the laws of this State shall . . . employ directly or indirectly in any capacity any Chinese or Mongolian" and a denial of the right to vote to all who were not "white male(s)". These provisions are relics of the past and have no place in the document that school children look to as a truthful statement of our fundamental rights as citizens.

Shame on those that appeal to past bigotries to prevent our constitution from being an accurate statement of the fundamental law of California as it is today.

The "no" argument is really a strong argument "for" Proposition 7. If you don't agree, think about it. All the opponent can say is that the proposition is bad because it is the truth and the law.

JUDGE BRUCE W. SUMNER
Chairman, California Constitution Revision Commission

KEN MEADE
Assemblyman, 16th District

ALAN ROBBINS
Senator, 22nd District

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

TEXT OF PROPOSITION 2

This amendment proposed by Assembly Constitutional Amendment 81 (Statutes of 1974, Resolution Chapter 81) expressly amends an existing section of the Constitution; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE XI

SEC. 3. (a) For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective ~~if approved without change by resolution of the Legislature, by rollcall vote entered in the journal, a majority of membership of each house concurring~~ *when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. A charter, amendment, revision, or repeal thereof shall be published in the official state statutes.* County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith. ~~A charter may be amended, revised, or repealed in the same manner.~~ *The provisions of a charter are the law of the State and have the force and effect of legislative enactments.*

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TEXT OF PROPOSITION 6

This amendment proposed by Senate Constitutional Amendment 26 (Statutes of 1974, Resolution Chapter 77) expressly amends an existing article of the Constitution; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENTS TO ARTICLE XIII

SEC. 1d. The homeowners' property tax exemption shall apply to each dwelling, as defined by the Legislature, occupied by an owner thereof on the lien date as his principal place of residence. This exemption shall not apply to any dwelling if an owner thereof has been granted an exemption for the assessment year pursuant to Section 1¼, 1¼a or 1¼b of this article, nor shall it apply to any property which the Legislature, by general laws, excludes from the exemption by reason of the fact that the tax on such property is paid either in whole or in part, either directly or indirectly, by the state or any political subdivision thereof. Only one homeowners' property tax exemption shall apply to each dwelling.

There is exempt from taxation the amount of ~~$750~~ *$1,750* of the assessed value of the dwelling and this shall be known as the homeowners' property tax exemption. The amount of the exemption may be increased or decreased by the Legislature, a majority of all of the members elected to each of the two houses voting in favor thereof, but such exemption shall not be reduced below ~~$750~~ *$1,750* of such assessed value.

The Legislature shall provide by general laws for subventions to counties, cities and counties, cities, and districts in this state in an amount equal to the amount of revenue lost by each such county, city and county, city, and district by reason of the homeowners' property tax exemption. No increase by the Legislature in the homeowners' property tax exemption above the amount of ~~$750~~ *$1,750* shall be effective for any fiscal year, unless the Legislature increases the rate of state taxes in an amount sufficient to provide subventions, and shall provide subventions, during such fiscal year to each county, city and county, city and district in this state a sum equal to the amount of revenue lost by each by reason of such increase.

If the Legislature increases the homeowners' property tax exemption, it shall provide increases in benefits to qualified renters, as defined by law, comparable to the average increase in benefits to homeowners as calculated by the Legislature.

Any revenues subvented by the state to replace revenues lost by reason of the homeowners' property tax exemption may be used by a county, city and county, city, or district for state purposes or for county, city and county, city, or district purposes, as the case may be.

Nothing in this Constitution shall constitute a limitation on the taxation of property, or on the bonding capacity of the state or of any city, city and county, county, or district, when based on a percentage of assessed or market value of property; provided, however, that the Legislature may establish maximum property tax rates and bonding limitations for units of local government.

~~For the 1968/1969 fiscal year only, the Legislature may effect the exemption by payment of $70 to taxpayers in the manner specified in Senate Bill No. 8 of the 1968 First Extraordinary Session of the Legislature, the provisions of which are hereby ratified.~~

[Second Resolved Clause]

And be it further resolved, That if Assembly Constitutional Amendment No. 32 of the 1973–74 Regular Session of the Legislature is approved by the voters in the general election to be held on November 5, 1974, that Section 1d of Article XIII, as amended in the first resolved clause of this senate constitutional amendment shall not become operative;

[Third Resolved Clause]

And be it further resolved, That if Assembly Constitutional Amendment No. 32 of the 1973–74 Regular Session of the Legislature is approved by the voters in the general election to be held on November 5, 1974, that the Constitution of the state be further amended by adding subdivision (k) to Section 3 of Article XIII, to read as follows:

(k) $7,000 of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as his principal residence, unless the dwelling is receiving another real property exemption. The Legislature may increase this exemption and may deny it if the owner received State or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.

No increase in this exemption above the amount of $7,000 shall be effective for any fiscal year unless the Legislature increases the rate of State taxes in an amount sufficient to provide the subventions required by Section 25.

If the Legislature increases the homeowners' property tax exemption, it shall provide increases in benefits to qualified renters, as defined by law, comparable to the average increase in benefits to homeowners, as calculated by the Legislature.

TEXT OF PROPOSITION 7—continued from page 27

~~for, such proceedings shall be had as are now or may be hereafter prescribed by law, not inconsistent herewith.~~

~~A grand jury shall be drawn and summoned at least once a year in each county.~~

Fifteenth—That Section 9 of Article I be repealed.

~~SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for publications in newspapers shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.~~

Sixteenth—That Section 9 of Article I be added, to read:

SEC. 9. A bill of attainder, ex post facto law, or law impairing the obligation of contracts may not be passed.

Seventeenth—That Section 10 of Article I be repealed.

~~SEC. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.~~

Eighteenth—That Section 10 of Article I be added, to read:

SEC. 10. Witnesses may not be unreasonably detained. A person

may not be imprisoned in a civil action for debt or tort, or in peace time for a militia fine.

Nineteenth—That Section 11 of Article I be repealed.

~~SEC. 11. All laws of a general nature shall have a uniform operation.~~

Twentieth—That Section 11 of Article I be added, to read:

SEC. 11. Habeas corpus may not be suspended unless required by public safety in cases of rebellion or invasion.

Twenty-first—That Section 12 of Article I be repealed.

~~SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace, and no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.~~

Twenty-second—That Section 12 of Article I be added, to read:

SEC. 12. A person shall be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required.

A person may be released on his or her own recognizance in the court's discretion.

Twenty-third—That Section 13 of Article I be repealed.

~~SEC. 13. In criminal prosecutions, in any court whatever, the party accused shall have the right to a speedy and public trial and to have the assistance of counsel for his defense; to have the process of the court to compel the attendance of witnesses in his behalf and to be personally present with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; but in any criminal case, whether the defendant testifies or not, his failure to explain or to deny by his testimony any evidence or facts in the case against him may be commented upon by the court and by counsel, and may be considered by the court or the jury. The Legislature shall have power to require the defendant in a felony case to have the assistance of counsel. The Legislature also shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide when there is reason to believe that the witness, from inability or other cause, will not attend at the trial.~~

Twenty-fourth—That Section 13 of Article I be added, to read:

SEC. 13. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

Twenty-fifth—That Section 14 of Article I be repealed.

~~SEC. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way or lands to be used for reservoir purposes shall be appropriated to the use of any corporation, except a municipal corporation or a county or the State or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or similar public corporation until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; provided, that in any proceeding in eminent domain brought by the State, or a county, or a municipal corporation, or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or similar public corporation, the aforesaid State or municipality or county or public corporation or district aforesaid may take immediate possession and use of any right of way or lands to be used for reservoir purposes, required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposited as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier.~~

Twenty-sixth—That Section 14 of Article I be added, to read:

SEC. 14. Felonies shall be prosecuted as provided by law, either by indictment or, after examination and commitment by a magistrate, by information.

A person charged with a felony by complaint subscribed under penalty of perjury and on file in a court in the county where the felony is triable shall be taken without unnecessary delay before a magistrate of that court. The magistrate shall immediately give the defendant a copy of the complaint, inform the defendant of the defendant's right to counsel, allow the defendant a reasonable time to send for counsel, and on the defendant's request read the complaint to the defendant. On the defendant's request the magistrate shall require a peace officer to transmit within the county where the court is located a message to counsel named by defendant.

A person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings.

Twenty-seventh—That Section 14½ of Article I be repealed.

~~SEC. 14½. The State, or any of its cities or counties, may acquire by gift, purchase or condemnation, lands for establishing, laying out, widening, enlarging, extending, and maintaining memorial grounds, streets, squares, parkways and reservations in and about and along and leading to any or all of the same, providing land so acquired shall be limited to parcels lying wholly or in part within a distance not to exceed one hundred fifty feet from the closest boundary of such public works or improvements; provided, that when parcels which lie only partially within said limit of one hundred fifty feet only such portions may be acquired which do not exceed two hundred feet from said closest boundary, and after the establishment, laying out, and completion of such improvements, may convey any such real estate thus acquired and not necessary for such improvements, with reservations concerning the future use and occupation of such real estate so as to protect such public works and improvements and their environs and to preserve the view, appearance, light, air and usefulness of such public works.~~

~~The Legislature may, by statute, prescribe procedure.~~

Twenty-eighth—That Section 15 of Article I be repealed.

~~SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud, nor in civil actions for torts, except in cases of wilful injury to person or property, and no person shall be imprisoned for a militia fine in time of peace.~~

Twenty-ninth—That Section 15 of Article I be added, to read:

SEC. 15. The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses in the defendant's behalf, to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant. The Legislature may provide for the deposition of a witness in the presence of the defendant and the defendant's counsel.

Persons may not twice be put in jeopardy for the same offense, be compelled in a criminal cause to be a witness against themselves, or be deprived of life, liberty, or property without due process of law.

Thirtieth—That Section 16 of Article I be repealed.

~~SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall ever be passed.~~

Thirty-first—That Section 16 of Article I be added, to read:

SEC. 16. Trial by jury is an inviolate right and shall be secured to all, but in a civil cause three-fourths of the jury may render a verdict. A jury may be waived in a criminal cause by the consent of both parties expressed in open court by the defendant and the defendant's counsel. In a civil cause a jury may be waived by the consent of the parties expressed as prescribed by statute.

In civil causes and cases of misdemeanor the jury may consist of 12 or a lesser number agreed on by the parties in open court.

Thirty-second—That Section 17 of Article I be repealed.

~~SEC. 17. Foreigners, 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 all property, other than real estate, as native born citizens; provided, that such aliens owning real estate at the time of the adoption of this amendment may remain such owners; and provided further, that the Legislature may, by statute, provide for the disposition of real estate which shall hereafter be acquired by such aliens by descent or devise.~~

Thirty-third—That Section 17 of Article I be added, to read:

SEC. 17. Cruel or unusual punishment may not be inflicted or excessive fines imposed.

Thirty-fourth—That Section 18 of Article I be repealed.

~~SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.~~

Thirty-fifth—That Section 18 of Article I be added, to read:

SEC. 18. Treason against the State consists only in levying war against it, adhering to its enemies, or giving them aid and comfort. A person may not be convicted of treason except on the evidence of two witnesses to the same overt act or by confession in open court.

Thirty-sixth—That Section 19 of Article I be repealed.

~~SEC. 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.~~

Thirty-seventh—That Section 19 of Article I be added, to read:

SEC. 19. Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

Thirty-eighth—That Section 20 of Article I be repealed.

~~SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open Court.~~

Thirty-ninth—That Section 20 of Article I be added, to read:

SEC. 20. Noncitizens have the same property rights as citizens.

Fortieth—That Section 21 of Article I be repealed.

~~SEC. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature; nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.~~

Forty-first—That Section 22 of Article I be repealed.

~~SEC. 22. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.~~

Forty-second—That Section 22 of Article I be added, to read:

SEC. 22. The right to vote or hold office may not be conditioned by a property qualification.

Forty-third—That Section 23 of Article I be repealed.

~~SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.~~

Forty-fourth—That Section 23 of Article I be added, to read:

SEC. 23. One or more grand juries shall be drawn and summoned at least once a year in each county.

Forty-fifth—That Section 24 of Article I be repealed.

~~SEC. 24. No property qualification shall ever be required for any person to vote or hold office.~~

Forty-sixth—That Section 24 of Article I be added, to read:

SEC. 24. Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution. This declaration of rights may not be construed to impair or deny others retained by the people.

Forty-seventh—That Section 26 of Article I be repealed.

~~SEC. 26. Neither the State nor any subdivision or agency thereof shall deny, limit or abridge, directly or indirectly, the right of any person, who is willing or desires to sell, lease or rent any part or all of his real property, to decline to sell, lease or rent such property to such person or persons as he, in his absolute discretion, chooses.~~

~~'Person' includes individuals, partnerships, corporations and other legal entities and their agents or representatives but does not include the State or any subdivision thereof with respect to the sale, lease or rental of property owned by it.~~

~~'Real property' consists of any interest in real property of any kind or quality, present or future, irrespective of how obtained or financed, which is used, designed, contructed, zoned or otherwise devoted to or limited for residential purposes whether as a single family dwelling or as a dwelling for two or more persons or families living together or independently of each other.~~

~~This Article shall not apply to the obtaining of property by eminent domain pursuant to Article I, Sections 14 and 14½ of this Constitution, nor to the renting or providing of any accommodations for lodging purposes by a hotel, motel or other similar public place engaged in furnishing lodging to transient guests.~~

~~If any part or provision of this Article, or the application thereof to any person or circumstance, is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end the provisions of this Article are severable.~~

Forty-eighth—That Section 26 of Article I be added, to read:

SEC. 26. All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require.

Forty-ninth—That Section 28 of Article I be added, to read:

SEC. 28. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Fiftieth—That Section 16 of Article IV be amended to read:

SEC. 16. *(a) All laws of a general nature have uniform operation.*

(b) A local or special statute is invalid in any case if a general statute can be made applicable.

Fifty-first—That Section 8 of Article XX be amended and renumbered to be Section 21 of Article I:

SEC. 8 *21*. Property owned before marriage or acquired during marriage by gift, will, or inheritance is separate property.

Fifty-second—That Section 18 of Article XX be amended and renumbered to be Section 8 of Article I:

SEC. ~~18~~ *8*. A person may not be disqualified ~~because of sex,~~ from entering or pursuing a ~~lawful~~ business, *profession,* vocation, or ~~profession~~ *employment because of sex, race, creed, color, or national or ethnic origin*.

TEXT OF PROPOSITION 8

This amendment proposed by Assembly Constitutional Amendment 32 (Statutes of 1974, Resolution Chapter 70) expressly amends the Constitution by amending, adding, and repealing various articles and sections. Therefore, the provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENTS TO ARTICLES IV, IX, XI, XIII, XVI, XX, AND XXVIII

First—That subdivision (e) be added to Section 12 of Article IV, to read:

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all State agencies.

Second—That Section 6 of Article IX be amended, to read:

SEC. 6. Each person, other than a substitute employee, employed by a school district as a teacher or in any other position requiring certification qualifications shall be paid a salary which shall be at the rate of an annual salary of not less than twenty-four hundred dollars ($2,400) for a person serving full time, as defined by law.

The Public School System shall include all kindergarten schools, elementary schools, secondary schools, technical schools, and State colleges, established in accordance with law and, in addition, the school districts and the other agencies authorized to maintain them. No school or college or any other part of the Public School System shall be, directly or indirectly, transferred from the Public School System or placed under the jurisdiction of any authority other than one included within the Public School System.

The Legislature shall add to the State School Fund such other means from the revenues of the State as shall provide in said fund for apportionment in each fiscal year, an amount not less than one hundred ~~and~~ eighty dollars ($180) per pupil in average daily attendance in the kindergarten schools, elementary schools, secondary schools, and technical schools in the Public School System during the next preceding fiscal year.

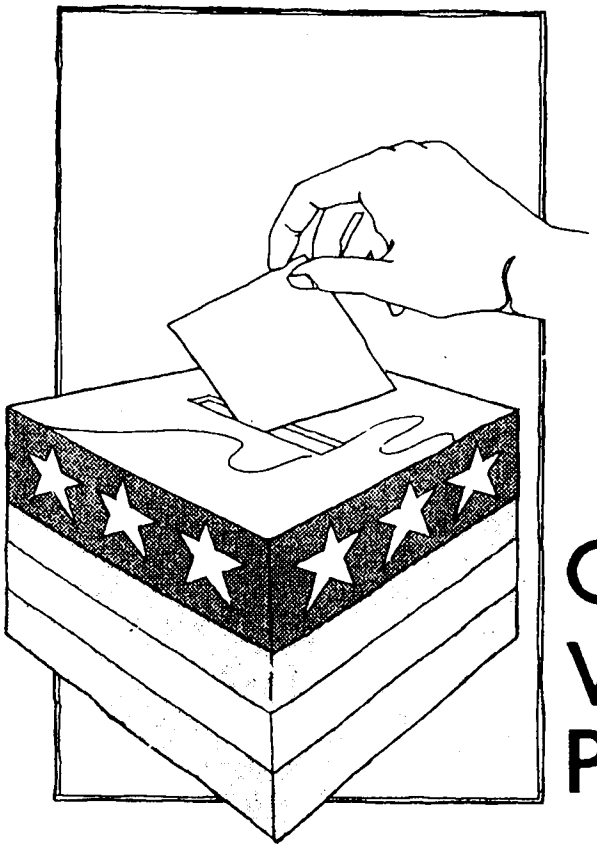
The entire State School Fund shall be apportioned in each fiscal year in such manner as the Legislature may provide, through the school districts and other agencies maintaining such schools, for the support of, and aid to, kindergarten schools, elementary schools, secondary schools, and technical schools except that there shall be apportioned to each school district in each fiscal year not less than one hundred twenty dollars ($120) per pupil in average daily attendance in the district during the next preceding fiscal year and except that the amount apportioned to each school district in each fiscal year shall be not less than twenty-four hundred dollars ($2,400).

Solely with respect to any retirement system provided for in the charter of any county or city and county pursuant to the provisions of which the contributions of, and benefits to, certificated employees of a school district who are members of such system are based upon the proportion of the salaries of such certificated employees contributed by said county or city and county, all amounts apportioned to said county or city and county, or to school districts therein, pursuant to the provisions of this section shall be considered as though derived from county or city and county school taxes for the support of county and city and county government and not money provided by the State within the meaning of this section.

~~The Legislature shall provide for the levying annually by the~~

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "11"



CALIFORNIA VOTERS PAMPHLET

GENERAL ELECTION NOVEMBER 7, 1978

COMPILED BY MARCH FONG EU · SECRETARY OF STATE

ANALYSES BY WILLIAM G. HAMM · LEGISLATIVE ANALYST

AVISO

Una traducción al español de este folleto del votante puede obtenerse si completa y nos envía la tarjeta con porte pagado que encontrará entre las páginas 24 y 25. Escriba su nombre y dirección en la tarjeta en LETRA DE MOLDE y regrésela a más tardar el 27 de octubre de 1978.

NOTICE

A Spanish translation of this ballot pamphlet may be obtained by completing and returning the postage-paid card which you will find between pages 24 and 25. Please PRINT your name and mailing address on the card and return it no later than October 27, 1978.

6 School Employees. Homosexuality—Initiative Statute

Official Title and Summary Prepared by the Attorney General

SCHOOL EMPLOYEES. HOMOSEXUALITY. INITIATIVE STATUTE. Provides for filing charges against schoolteachers, teachers' aides, school administrators or counselors for advocating, soliciting, imposing, encouraging or promoting private or public sexual acts defined in sections 286(a) and 288a(a) of the Penal Code between persons of same sex in a manner likely to come to the attention of other employees or students; or publicly and indiscreetly engaging in said acts. Prohibits hiring and requires dismissal of such persons if school board determines them unfit for service after considering enumerated guidelines. In dismissal cases only, provides for two-stage hearings, written findings, judicial review. Financial impact: Unknown but potentially substantial costs to State, counties and school districts depending on number of cases which receive an administrative hearing.

Analysis by Legislative Analyst

Background:

Current law designates school district employees as either "certificated" or "classified". *Certificated* employees are teachers, counselors, administrators, and certain types of teacher aides. *Classified* employees include janitors, cafeteria workers, clerical employees, and most teacher aides. Both certificated and classified school employees may be dismissed for reasons set forth in state law.

Certificated employees may be dismissed for incompetency, insubordination, unfitness of service, immoral or unprofessional conduct, and conviction of a felony. The law does not specifically list homosexual behavior as a reason for dismissal. However, existing law provides for dismissal in cases where such behavior has led to (1) a felony conviction for crimes such as solicitation, sodomy or perversion, or (2) proven immoral conduct which results in a reduction of the employee's ability to perform effectively.

The law provides that a certificated employee charged with immoral conduct may be dismissed by a majority vote of the district school board following 30 days' notice. If the employee requests a hearing within this period a special commission called the Commission on Professional Competence is directed to hear the dismissal charges. This commission consists of (a) a person appointed by the employee, (b) a person appointed by the district school board, and (c) a state administrative hearing officer. The commission may uphold either the school board or the employee by a majority vote.

Proposal:

This proposition applies to all "certificated" employees and teacher aides, and would revise existing law as follows:

1. A district school board would be *required* to dismiss, or refuse to hire, any person who has engaged in homosexual *activity or conduct* if the board believes such activity renders the person unfit for service.

The proposition defines homosexual *activity* as the public or indiscreet commission of an act of sodomy or perversion (Penal Code Sections 286, 299a).

Homosexual *conduct* is defined as the "advocating, soliciting, imposing, encouraging or promoting private or public homosexual activity directed at, or likely to come to the attention of school children and/or other employees." It is not clear how far the proposition's definition of homosexual conduct would extend current law. This would depend on how broadly or narrowly the "advocacy" or "promotion" of homosexual behavior is interpreted by school boards and the courts.

2. The district school board, rather than the Commission on Professional Competence, would hear the charges and could dismiss the employee by a majority vote of its members. Any judgment by the school board could be appealed to the courts.

Fiscal Effect:

According to the State Office of Administrative Hearings, the cost of a teacher dismissal hearing under existing law has averaged approximately $5,000. This cost is based on all dismissal cases heard in 1976–77, and includes salaries of the hearing officer and court reporter, expenses of the other members of the Commission on Professional Competence, legal fees, and reimbursements to witnesses for lost time. These expenses are shared by the state, the school board, and the employee if the employee's dismissal is upheld. If the employee is reinstated, however, the board pays all expenses. Certain of these expenditures, particularly hearing officer costs and commission expenses, would be eliminated by the simplified hearing procedures contained in this proposal. This would reduce the average cost of dismissal proceedings involving homosexual employees to $3,000–$4,000.

The fiscal impact of the proposition would depend on the total number of hearings initiated. Lacking a precise definition of what constitutes "homosexual conduct", we have no basis on which to make an estimate. Actions by school boards and the courts, especially those that determine what constitutes "homosexual conduct", will play important roles in determining the fiscal effect of this measure. Because the proposition could legalize dismissal for any public homosexual activity or conduct regardless of its criminality, it might result in the initiation of many dismissal proceedings. We thus conclude that the proposition could result in substantial costs to the state, school districts, and school employees due to an increase in dismissal hearings, plus additional court costs to the state and county governments.

Text of Proposed Law

This initiative measure proposes to add sections to the Education Code. It does not expressly amend any existing law; therefore, the provisions to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Section 44837.5 is added to the Education Code, to read:

44837.5 One of the most fundamental interests of the State is the establishment and the preservation of the family unit. Consistent with this interest is the State's duty to protect its impressionable youth from influences which are antithetical to this vital interest. This duty is particularly compelling when the state undertakes to educate its youth, and, by law, requires them to be exposed to the state's chosen educational environment throughout their formative years.

A schoolteacher, teacher's aide, school administrator or counselor has a professional duty directed exclusively towards the moral as well as intellectual, social and civic development of young and impressionable students.

As a result of continued close and prolonged contact with schoolchildren, a teacher, teacher's aide, school administrator or counselor becomes a role model whose words, behavior and actions are likely to be emulated by students coming under his or her care, instruction, supervision, administration, guidance and protection.

For these reasons the state finds a compelling interest in refusing to employ and in terminating the employment of a schoolteacher, a teacher's aide, a school administrator or a counselor, subject to reasonable restrictions and qualifications, who engages in public homosexual activity and/or public homosexual conduct directed at, or likely to come to the attention of, schoolchildren or other school employees.

This proscription is essential since such activity and conduct undermines that state's interest in preserving and perpetuating the conjugal family unit.

The purpose of sections 44837.6 and 44933.5 is to proscribe employment of a person whose homosexual activities or conduct are determined to render him or her unfit for service.

SECTION 2. Section 44837.6 is added to the Education Code, to read:

44837.6 (a) The governing board of a school district shall refuse to hire as an employee any person who has engaged in public homosexual activity or public homosexual conduct should the board determine that said activity or conduct renders the person unfit for service.

(b) For purposes of this section, (1) "public homosexual activity" means the commission of an act defined in subdivision (a) of Section 286 of the Penal Code, or in subdivision (a) of Section 288a of the Penal Code, upon any other person of the same sex, which is not discreet and not practiced in private, whether or not such act, at the time of its commission, constituted a crime;

(2) "Public homosexual conduct" means the advocating, soliciting, imposing, encouraging, or promoting of private or public homosexual activity directed at, or likely to come to the attention of schoolchildren and/or other employees; and

(3) "Employee" means a probationary or permanent certificated teacher, teacher's aide, school administrator or counselor.

(c) In evaluating the public homosexual activity and/or the public homosexual conduct in question for the purposes of determining an applicant's unfitness for service as an employee, a board shall consider the factors delineated in Section 44933.5(f).

SECTION 3. Section 44933.5 is added to the Education Code, to read:

44933.5 (a) In addition to the grounds specified in Sections 44932, 44948 and 44949, or any other provision of law, the commission of "public homosexual activity" or "public homosexual conduct" by an employee shall subject the employee to dismissal upon a determination by the board that said activity or conduct renders the employee unfit for service. Dismissal shall be determined in accordance with the procedures contained in this section.

(b) For the purposes of this section, (1) "public homosexual activity" means the commission of an act defined in subdivision (a) of Section 286 of the Penal Code, or in subdivision (a) of Section 288a of the Penal Code, upon any other person of the same sex, which is not discreet and not practiced in private, whether or not such act, at the time of its commission, constituted a crime;

(2) "public homosexual conduct" means the advocating, soliciting, imposing, encouraging or promoting of private or public homosexual activity directed at, or likely to come to the attention of, schoolchildren and/or other employees; and

(3) "Employee" means a probationary or permanent certificated teacher, teacher's aide, school administrator or counselor.

(c) Notwithstanding any other provision of law regarding dismissal procedures, the governing board, upon the filing of written charges that the person has committed public homosexual activity or public homosexual conduct, duly signed and verified by the person filing the charges, or upon written charges formulated by the governing board, shall set a probable cause hearing on the charges within fifteen (15) working days after the filing or formulation of written charges and forward notice to the employee of the charges not less than ten (10) working days prior to the probable cause hearing. The notice shall inform the employee of the time and place of the governing board's hearing to determine if probable cause exists that the employee has engaged in public homosexual activity or public homosexual conduct. Such notice shall also inform the employee of his or her right to be present with counsel and to present evidence which may have bearing on the board's determination of whether there is probable cause. This hearing shall be held in private session in accordance with Govt. Code § 54957, unless the employee requests a public hearing. A finding of probable cause shall be made within thirty (30) working days after the filing or formulation of written charges by not less than a simple majority vote of the entire board.

(d) Upon a finding of probable cause, the governing board may, if it deems such action necessary, immediately suspend the employee from his or her duties. The board shall, within thirty-two (32) working days after the filing or formulation of written charges, notify the employee in writing of its findings and decision to suspend, if imposed, and the board's reasons therefor.

(e) Whether or not the employee is immediately suspended, and notwithstanding any other provision of law, the governing board shall, within thirty (30) working days after the notice of the finding of probable cause, hold a hearing on the

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6 School Employees. Homosexuality—Initiative Statute

Argument in Favor of Proposition 6

Your rights as a parent, a citizen, and a taxpayer are under attack.

A coalition of homosexual teachers and their allies are trying to use the vast power of our school system to impose their own brand of non-morality on your children. Recently a quarter of a million of these "gay rights" activists demonstrated in San Francisco on behalf of allowing homosexuality to be taught in the classroom.

This year, we taxpayers are paying $11 billion to support our schools. That is more money than we spend on police, fire protection, hospitals, or any other service of government. We have a right to demand that those schools teach our children that there really *is* a difference between right and wrong.

This measure will provide for the removal of any teacher, teacher's aide, school administrator or counselor who advocates, solicits, encourages, or promotes homosexual behavior. In the case of Gaylord vs. Tacoma 1977, the Supreme Court of the United States upheld the right of a local school board to dismiss a homosexual teacher by refusing to review the case.

As parents, we see the symptoms of moral decay all around us: children hooked on hard drugs, sex and violence glorified in the mass media, gang wars, casual pre-marital sex among teenagers, and all the rest.

It is not enough to merely tolerate the family, we must create an atmosphere in which it will flourish.

We want to protect our children against these things, but without the help of the schools, we are helpless. Our teachers spend more time with our children than we do, and if they fail to do the job, what can we do?

We know that the example of an admired teacher can influence an impressionable young mind more than a library full of books. If that teacher respects the essential decencies of American life, he can set the feet of our children on the path of moral responsibility, but if that teacher questions the most elementary truths of our society, his influence can lead to tragedy.

We know that the undermining of traditional values which began in the '60's has left many Americans in a moral vacuum which they attempt to fill with drugs, alcohol, and "alternative life styles". We don't question the right of adults to solve their problems as they see fit, but we do object to their imposing their solutions on our children.

In June, we Californians gave the nation a new idea. The Jarvis Amendment has made fiscal responsibility respectable again and is serving as a model and inspiration for the rest of the nation.

Now the nation is watching us again. We're going to put America back on the high road, not because the politicians want it, but because the people demand it.

Your YES vote on Proposition 6 is a vote for the rights of the next generation of Americans.

JOHN V. BRIGGS
Senator, State of California
35th District

DOCTOR RAY BATEMA
Pastor, Central Baptist Church

F. LA GARD SMITH
Professor of Law

Rebuttal to Argument in Favor of Proposition 6

SENATOR BRIGGS suggests that all of our social evils—drugs—violence—immorality—will be eliminated by his elixir—PROPOSITION 6. THIS IS RIDICULOUS! Shifting the burden of curing society's ills to our teachers is unwarranted and unfair.

SENATOR BRIGGS and his followers would have you believe that teachers are promoting homosexuality in the classroom. THIS IS NONSENSE! Any teacher who did so would be fired, and we have the laws to do so right now.

SENATOR BRIGGS attempts to link his scheme with Proposition 13.

THIS IS A CONTRADICTION! PROPOSITION 6 would add another layer of unneeded and costly bureaucratic procedure to the system. Jarvis/Gann sought to eliminate such unnecessary government interference.

THESE ARE THE FACTS ABOUT PROPOSITION 6:

PROPOSITION 6 IS NOT NEEDED.

PROPOSITION 6 WILL CAUSE PROBLEMS IN SCHOOLS AND COMMUNITIES.

PROPOSITION 6 WILL COST TAXPAYERS MONEY.

PROPOSITION 6 IS BAD LAW.

VOTE NO ON PROPOSITION 6.

JANE McKASKLE MURPHY
San Francisco Police Commissioner

RAOUL TEILHET
President, California Federation of Teachers, AFT, AFL-CIO

EDMUND D. EDELMAN
Los Angeles County Supervisor, 3rd District

Arguments printed on this page are the opinions of the authors and have not been checked for accuracy by any official agency.

School Employees. Homosexuality—Initiative Statute 6

Argument Against Proposition 6

PROPOSITION 6 WOULD LEGISLATE INTOLERANCE AND HARASSMENT, unnecessarily increasing the power of government to invade the privacy of many of our citizens. If enacted, it would misuse tax dollars and force school boards to ignore educational needs to spend time and money on enforcement of this discriminatory legislation.

Proponents of this initiative mislead the public when they claim legislation must be enacted to protect students against the possibility of educational personnel advocating a particular way of life. The State Department of Education says unequivocally that sufficient and effective laws and regulations now exist to safeguard any student from misconduct by any teacher—homosexual or heterosexual.

Although they are aware that new laws are unnecessary, sponsors of this legislation seek to fire every homosexual teacher, aide, administrator or counselor, no matter how competent, because of some aspect of his or her *private* life. This law will require school boards to invade the privacy and threaten the careers of thousands of teachers and other school employees. Rumors will lead to investigations of families, friendships, home lives, not only of teachers but also of students. As a result the educational process will be severely disrupted.

Not content to legislate such discriminatory power and waste tax dollars, initiative sponsors want to limit the free speech and objective teaching of *all* educators, of any sexual preference.

This proposed law ignores the wishes of those who seek less government in their lives and stifles the voices of those who believe in the right to privacy and civil liberties. *It legislates repression that threatens every individual and group.*

We don't need to squander tax dollars to invade privacy and disrupt school systems. Fair and effective laws now exist to protect our students. DON'T INSTITUTE WITCH HUNTS.

VOTE NO ON SIX.

JANE McKASKLE MURPHY
San Francisco Police Commissioner

RAOUL TEILHET
President, California Federation of Teachers, AFT, AFL-CIO

EDMUND D. EDELMAN
Los Angeles County Supervisor, 3rd District

Rebuttal to Argument Against Proposition 6

The homosexuals and their supporters tell us the present law is just fine.

Well, let them tell that to the citizens of Healdsburg, California. They know better.

This quiet little town in the Sonoma wine country has been fighting unsuccessfully to remove a second grade teacher who has openly admitted his homosexuality and has campaigned publicly to keep homosexual teachers in our public schools.

School officials tell parents their hands are tied; the existing law leaves them powerless to deal with the problem.

In desperation, twelve families have removed their children from the school rather than expose them to the example of an openly homosexual teacher.

Four of the five members of the Healdsburg school board have voted to support Proposition 6. They see it as the last hope for restoring to parents the freedom to control their own schools.

A small but powerful group of militant homosexuals is determined to impose its lifestyle on the majority of decent citizens. Just who is really being harassed, the homosexual advocates or the public?

According to homosexual leaders many homosexual teachers have kept silent until now but if Proposition 6 fails they will "go public" and announce their lifestyle to the world, thus providing their students with a living example of the acceptability of the homosexual way of life.

So the next time someone tells you "It can't happen here" tell him to talk to the parents of Healdsburg. Those parents know we need Proposition 6.

VOTE YES ON PROPOSITION 6.

JOHN V. BRIGGS
Senator, State of California 35th District

DOCTOR RAY BATEMA
Pastor, Central Baptist Church

F. LA GARD SMITH
Professor of Law

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

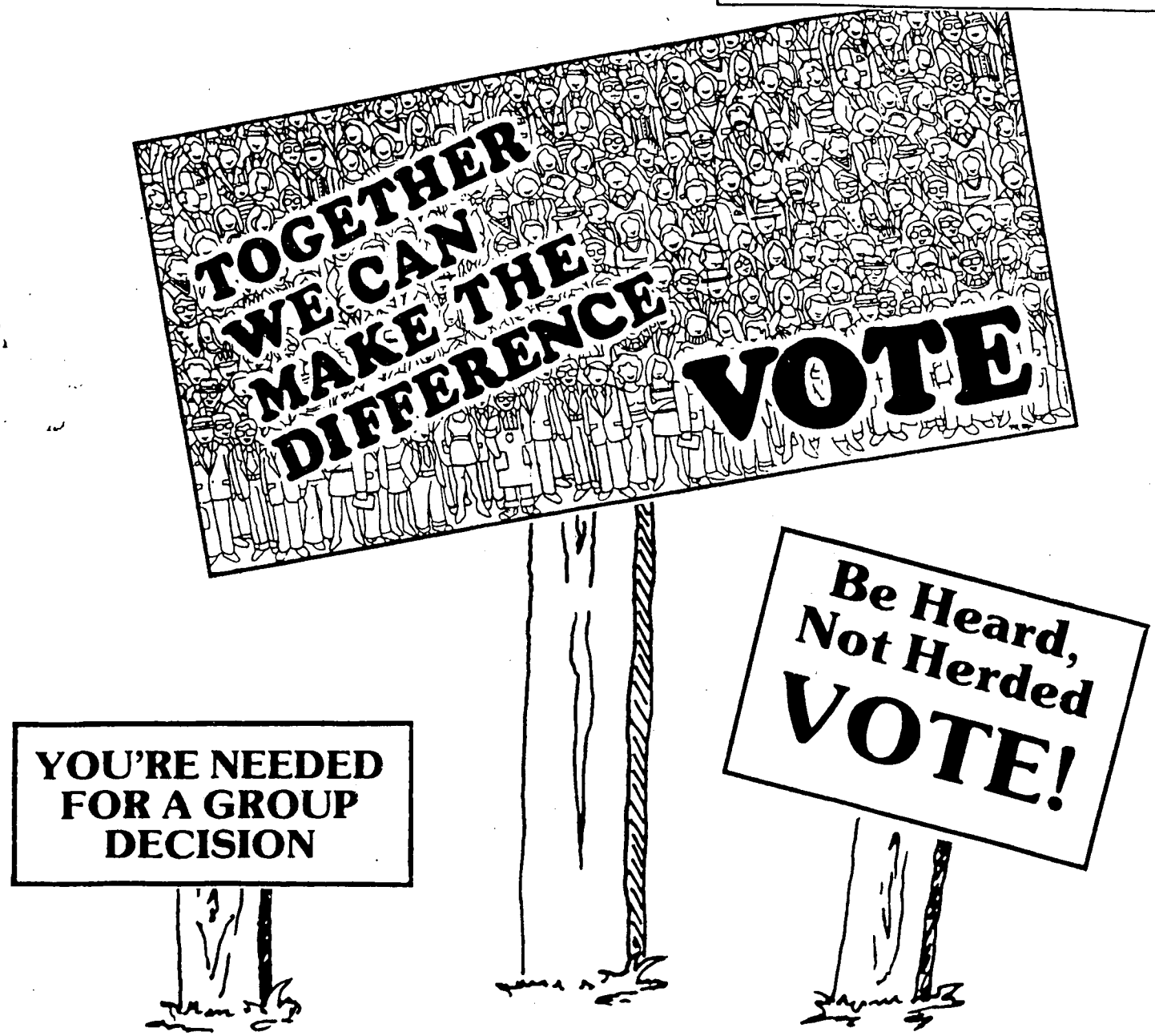
EXHIBIT "12"

CALIFORNIA BALLOT PAMPHLET

GENERAL ELECTION
NOVEMBER 4, 1986

AVISO

Una traducción al español de este folleto de la balota puede obtenerse si completa y nos envía la tarjeta con porte pagado que encontrará entre las páginas 32 y 33. Escriba su nombre y dirección en la tarjeta en LETRA DE MOLDE y regrésela a más tardar el 22 de octubre de 1986.



Compiled by MARCH FONG EU • Secretary of State

Analyses by JOHN L. VICKERMAN • Acting Legislative Analyst

64 Acquired Immune Deficiency Syndrome (AIDS). Initiative Statute

Official Title and Summary Prepared by the Attorney General

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS). INITIATIVE STATUTE. Declares that AIDS is an infectious, contagious and communicable disease and that the condition of being a carrier of the HTLV-III virus is an infectious, contagious and communicable condition. Requires both be placed on the list of reportable diseases and conditions maintained by the director of the Department of Health Services. Provides that both are subject to quarantine and isolation statutes and regulations. Provides that Department of Health Services personnel and all health officers shall fulfill the duties and obligations set forth in specified statutory provisions to preserve the public health from AIDS. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: The fiscal effect of the measure could vary greatly depending upon how it would be interpreted by public health officers and the courts. If only existing discretionary communicable disease controls were applied to the AIDS disease, given the current state of medical knowledge, there would be no substantial change in state and local costs as a direct result of this measure. If the measure were interpreted to require added control measures, depending upon the level of activity taken, the cost of implementing these measures could range to hundreds of millions of dollars per year.

Analysis by the Legislative Analyst

Background

Acquired immune deficiency syndrome (AIDS) is a disease that impairs the body's normal ability to resist harmful diseases and infections. The disease is caused by a virus that is spread through intimate sexual contact or exposure to the blood of an infected person. As of the preparation of this analysis, there was no readily available method to detect whether a person actually *has* the AIDS virus. A test does exist to detect whether a person has ever been *infected* with the AIDS virus and as a result has developed antibodies to it. A person infected with the AIDS virus may or may not develop the AIDS disease after a period of several years. There is no known cure for AIDS, which is ultimately fatal.

As of June 30, 1986, there were 5,188 cases of AIDS and 2,406 deaths from the disease in California. The State Department of Health Services estimates that up to 500,000 persons in California are infected with the AIDS virus, and that by 1990 there will be approximately 30,000 cases of AIDS in the state.

Existing Laws Covering Communicable Diseases. Local health officers have broad authority to take measures they believe are necessary to protect public health and prevent the spread of disease-causing organisms. However, this broad authority is limited to situations where there is a reasonable belief that the individual affected has or may have the disease and poses a danger to the public. The kind of measure taken by health officers varies, depending on how easily an organism is spread from one person to another. For example, to prevent the spread of a disease, local health officers may require isolation of infected or diseased persons and quarantine of exposed persons. In addition, persons infected with a disease-causing organism may be excluded from schools for the duration of the infection and excluded from food handling jobs. In some cases, these measures may be applied to persons suspected of having the infection or the disease.

Current AIDS Reporting Requirements. Physicians and other health care providers are now required to report cases of certain listed communicable diseases to local health officers who, in turn, report the cases to the State Department of Health Services. At the time this analysis was prepared, AIDS was not on the list of communicable diseases that must be reported to local health officers. However, AIDS is being reported under a regulation which requires an unusual disease, not listed as a communicable disease, to be reported by local health officers.

Under other provisions of law, hospitals are require[d] to report cases of AIDS to local health officers who, in [turn], report the cases to the State Department of Health Services. Counties also report to the state the number of cases in which blood tests performed at certain facilities reveal the presence of antibodies to the AIDS virus, indicating that a person has been infected with the virus. Existing law does not allow the release of the names or other identifying information for persons who take the AIDS antibody test.

According to the State Department of Health Services, persons who have AIDS and persons who are capable of spreading the AIDS virus are subject to existing communicable disease laws. However, no health officer has ever taken any official action to require persons infected with the AIDS virus to be isolated or quarantined, because there is no medical evidence which demonstrates that the AIDS virus is transmitted by casual contact with an infected person. In addition, no health officer has recommended excluding persons with AIDS, or those who are capable of spreading AIDS, from schools or jobs.

Proposal

This measure declares that AIDS and the "condition of being a carrier" of the virus that causes AIDS are communicable diseases. The measure also requires the State Department of Health Services to add these conditions to the list of diseases that must be reported. Because AIDS cases are already being reported, the measure would require the reporting of those who are "carriers of the AIDS virus." Currently, no test to make this determination is readily available.

The measure also states that the Department of Health Services and all health officers "shall fulfill all of the duties and obligations specified" under the applicable laws "in a manner consistent with the intent of this act." Although the meaning of this language could be subject to two different interpretations, it most likely means that the laws and regulations which currently apply to other communicable diseases shall also apply to AIDS and the "condition of being a carrier" of the AIDS virus. Thus, health officers would continue to exercise their discretion in taking actions necessary to control this disease. Based on existing medical knowledge and health department practices, few, if any, AIDS patients and carriers of the AIDS virus would be placed in isolation or under quarantine. Similarly, few, if any, persons would be excluded from schools or food handling jobs. If, however, the language is interpreted as placing new requirements on health officers, it could result in new actions such as expanding testing programs for the AIDS virus, imposing isolation or quarantine of persons who have the disease, and excluding persons infected with the AIDS virus from schools and food handling positions.

Fiscal Effect

The fiscal effect of this measure could vary greatly, depending on how it would be interpreted by state and local health officers and the courts. If existing *discretionary* communicable disease controls were applied to the AIDS disease, there would be *no* substantial net change in state and local costs as a *direct* result of this measure. Thus, the primary effect of this measure would be to require the reporting of persons who are carriers of the virus which causes AIDS. Very few cases would be reported because no test to confirm that a person carries the virus is readily available. If such a test becomes widely available in the future, more cases would be reported.

The fiscal impact could be very substantial if the measure were interpreted to require changes in AIDS control measures by state and local health officers, either voluntarily or as a result of a change in medical knowledge on how the disease is spread, or as a result of court decisions which mandate certain control measures. Ultimately, the fiscal impact would depend on the level of activity that state and local health officers might undertake with respect to: (1) identifying, isolating and quarantining persons infected with the virus, or having the disease, and (2) excluding those persons from schools or food handling positions. The cost of implementing these actions could range from millions of dollars to hundreds of millions of dollars per year.

In summary, the net fiscal impact of this measure is unknown—and could vary greatly, depending on what actions are taken by health officers and the courts to implement this measure.

Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure proposes to add new provisions to the law; therefore, the new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

Section 1.

The purpose of this Act is to:

A. Enforce and confirm the declaration of the California Legislature set forth in Health and Safety Code Section 195 that acquired immune deficiency syndrome (AIDS) is serious and life threatening to men and women from all segments of society, that AIDS is usually lethal and that it is caused by an infectuous agent with a high concentration of cases in California;

B. Protect victims of acquired immune deficiency syndrome (AIDS), members of their families and local communities, and the public health at large; and

C. Utilize the existing structure of the State Department of Health Services and local health officers and the statutes and regulations under which they serve to preserve the public health from acquired immune deficiency syndrome (AIDS).

Section 2.

Acquired immune deficiency syndrome (AIDS) is an infectuous, contagious and communicable disease and the condition of being a carrier of the HTLV-III virus is an infectuous, contagious and communicable condition and both shall be placed and maintained by the director of the Department of Health Services on the list of reportable diseases and conditions mandated by Health and Safety Code Section 3123, and both shall be included within the provisions of Division 4 of such code and the rules and regulations set forth in Administrative Code Title 17, Part 1, Chapter 4, Subchapter 1, and all personnel of the Department of Health Services and all health officers shall fulfill all of the duties and obligations specified in each and all of the sections of said statutory division and administrative code subchapter in a manner consistent with the intent of this Act, as shall all other persons identified in said provisions.

Section 3.

In the event that any section, subsection or portion thereof of this Act is deemed unconstitutional by a proper court of law, then that section, subsection or portion thereof shall be stricken from the Act and all other sections, subsections and portions thereof shall remain in force, alterable only by the people, according to process.

64 Acquired Immune Deficiency Syndrome (AIDS). Initiative Statute

Arguments in Favor of Proposition 64

Proposition 64 extends existing public health codes for communicable diseases to AIDS and AIDS virus carriers. This means that the same public health codes that already protect you and your family from other dangerous diseases will also protect you from AIDS. Proposition 64 will keep AIDS out of our schools, out of commerical food establishments, and will give health officials the power to test and quarantine where needed. These measures are not new; they are the same health measures applied, *by law,* every day, to every other dangerous contagious disease.

Today AIDS is out of control. There are at least 300,000 AIDS carriers in California, and the number of cases of this highly contagious disease is doubling every 6 to 12 months. The number of "unexplained" AIDS cases—cases not in "high-risk" groups, such as homosexuals and intravenous drug users—continues to grow at alarming rates. Indeed, the majority of cases worldwide fall into no identifiable "risk group" whatsoever. The AIDS virus has been found living in many bodily fluids, including blood, saliva, respiratory fluids, sweat, and tears, and it can survive upwards of seven days outside the body. There presently exist no cure for the sick and no vaccination for the healthy. It is 100% lethal.

AIDS is the gravest public health threat our nation has ever faced. The existing law of California clearly states that certain proven public health measures *must* be taken to protect the public from *any* communicable disease, and no competent medical professional denies that AIDS is "communicable." Despite these facts, politicians and special interest groups have circumvented the public health laws. For the first time in our history, a deadly disease is being treated as a "civil rights" issue, rather than as a public health issue.

The medical facts are clear. The law is clear. Common sense agrees. You and your family have the right to be protected from *all* contagious diseases, including AIDS—the deadliest of them all. If you agree, vote YES on Proposition 64.

KHUSHRO GHANDHI
California Director, National Democratic Policy Committee (NDPC), and Member-elect, Los Angeles County Democratic Party Central Committee

JOHN GRAUERHOLZ, M.D., FCAP
(Fellow, College of American Pathologists)

California law today makes it illegal for public health authorities to be informed of a large number of those (about 385,000) who can spread the deadly AIDS virus to others. How can they take the necessary steps to slow its spread as long as this is true?

Under existing law, a physician who encounters any of 58 reportable diseases is required to report to health officials. Included are several venereal diseases, such as syphilis and gonorrhea. Contact tracing is conducted. But, for those with the AIDS virus, not yet developed into AIDS, a special state law passed at the request of the male homosexual lobby prohibits contact tracing. Proposition 64 will require that those with the AIDS virus be reported a[illegible] other communicable diseases. It does not require qu[illegible]tine.

The cost of the AIDS epidemic in California, it is estimated, will be at least 59,400 lives by 1991 and almost $6 billion to be paid by insurance and/or taxpayers. Let's reduce those statistics by voting YES on Proposition 64.

WILLIAM E. DANNEMEYER
Member of Congress, 39th District

Rebuttal to Arguments in Favor of Proposition 64

Would you let a stranger with no medical training or medical background diagnose a disease or illness that you have? Would you let a political extremist dictate medical policy? *OF COURSE NOT.*

The followers of Lyndon LaRouche suggest that the hands of the medical community have been tied. *THIS IS NOT TRUE! In fact,* the California Medical Association, the California Nurses Association, the California Hospital Association and other health professionals believe that Proposition 64 *would seriously hurt* their ability to treat and find a cure for AIDS. These health professionals are seriously concerned that years of research will be undermined by fear generated by this irrational proposition.

NO ONE has contracted AIDS from casual contact at a restaurant, grocery store, or in the workplace. Think for a moment. If it were true that AIDS is casually transmitted, clearly many more men, women and children would be ill. *This is just not the fact.*

The followers of Lyndon LaRouche are at it again! Using partial truths and falsehoods, they are attempting to create panic in California. Say NO to PANIC. Vote NO on Proposition 64.

HELEN MIRAMONTES, R.N., M.S., CCRN
President, California Nurses Association

C. DUANE DAUNER
President, California Hospital Association

GLADDEN V. ELLIOTT, M.D.
President, California Medical Association

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Acquired Immune Deficiency Syndrome (AIDS). Initiative Statute

64

Argument Against Proposition 64

Proposition 64 must be defeated for the *safety* and *public health* of all Californians. It is an irrational, inappropriate and misguided approach to a serious public health problem. The proponents of this measure are followers of *extremist* Lyndon LaRouche. They want to create an atmosphere of *fear*, misunderstanding, *inadequate health care* and *panic*. In fact, the acronym of their campaign committee is PANIC.

Public health decisions must be left in the hands of the medical profession and public health officials or we will endanger the lives of Californians. The California Medical Association and county public health officials recognize the danger of allowing political extremists to dictate state public health and medical policy.

This type of repressive and discriminatory action forced upon Californians by followers of Lyndon LaRouche will not serve to limit the problem, *but rather could prolong the spread of this terrible disease.* The fear of quarantine or other discriminatory measures, including loss of jobs, will make people reluctant to be tested. Fearing social isolation, individuals at risk will avoid early medical intervention, or even infection testing, driving AIDS underground.

Enforcement of this measure *could cost the taxpayers billions of dollars* to quarantine and isolate AIDS carriers and could require public health officials to do so. Quarantine would serve no medical purpose because *there are no documented cases of AIDS ever being transmitted by casual contact.*

Californians from all walks of life know they must unite to end this dreadful epidemic. Californians can be proud that doctors and public health officials have acted in a professional, rational and responsible manner to protect the health of Californians and have taken all appropriate precautions as they are needed. *This kind of initiative can only divide, create panic and force thousands not to get tested or treated because of fear.*

Join us, the *Los Angeles Times, The Los Angeles Herald Examiner, San Francisco Examiner, the California Medical Association,* and many others in opposing the extremes of followers of Lyndon LaRouche. Vote NO on *Proposition 64!*

GLADDEN V. ELLIOTT, M.D.
President, California Medical Association

ED ZSCHAU
Member of Congress, 12th District

ALAN CRANSTON
United States Senator

Rebuttal to Argument Against Proposition 64

Opponents of Proposition 64 have spent a great deal of rhetoric, while avoiding medical issues.

The facts:

- Health officials' failure to implement existing public health laws has resulted in nearly 500,000 people infected in California, each capable of infecting others.
- AIDS is the most rapidly spreading lethal disease in the country.
- Of those infected, between 40% and 99% will probably die—between 200,000 and 500,000 deaths in California —and AIDS is doubling every year.
- The vast majority of AIDS cases worldwide lie *outside* "high risk" groups. The victims are *not* homosexuals, and are *not* intravenous drug users. In Haiti, three years ago, 70% of AIDS cases were in "high risk" groups. Today, over 70% are *not* in "high risk" groups. Could this happen here? It can and it will, unless we stop it.
- Do we know with certainty how AIDS spreads? We do not. The majority of cases have *never been studied.*
- Many health officials are demanding public health measures. Dr. Kizer, California's top health official, has called for more reporting and testing powers.
- The AIDS virus exists in many bodily effluents and survives outside the body.

Proposition 64 implements the *existing* health laws; laws scientifically designed to protect your health; laws which have been ruled constitutional by courts for decades.

Don't gamble with human life. Vote YES on Proposition 64.

GUS S. SERMOS
Former Centers for Disease Control Public Health Adviser with AIDS Program in Florida

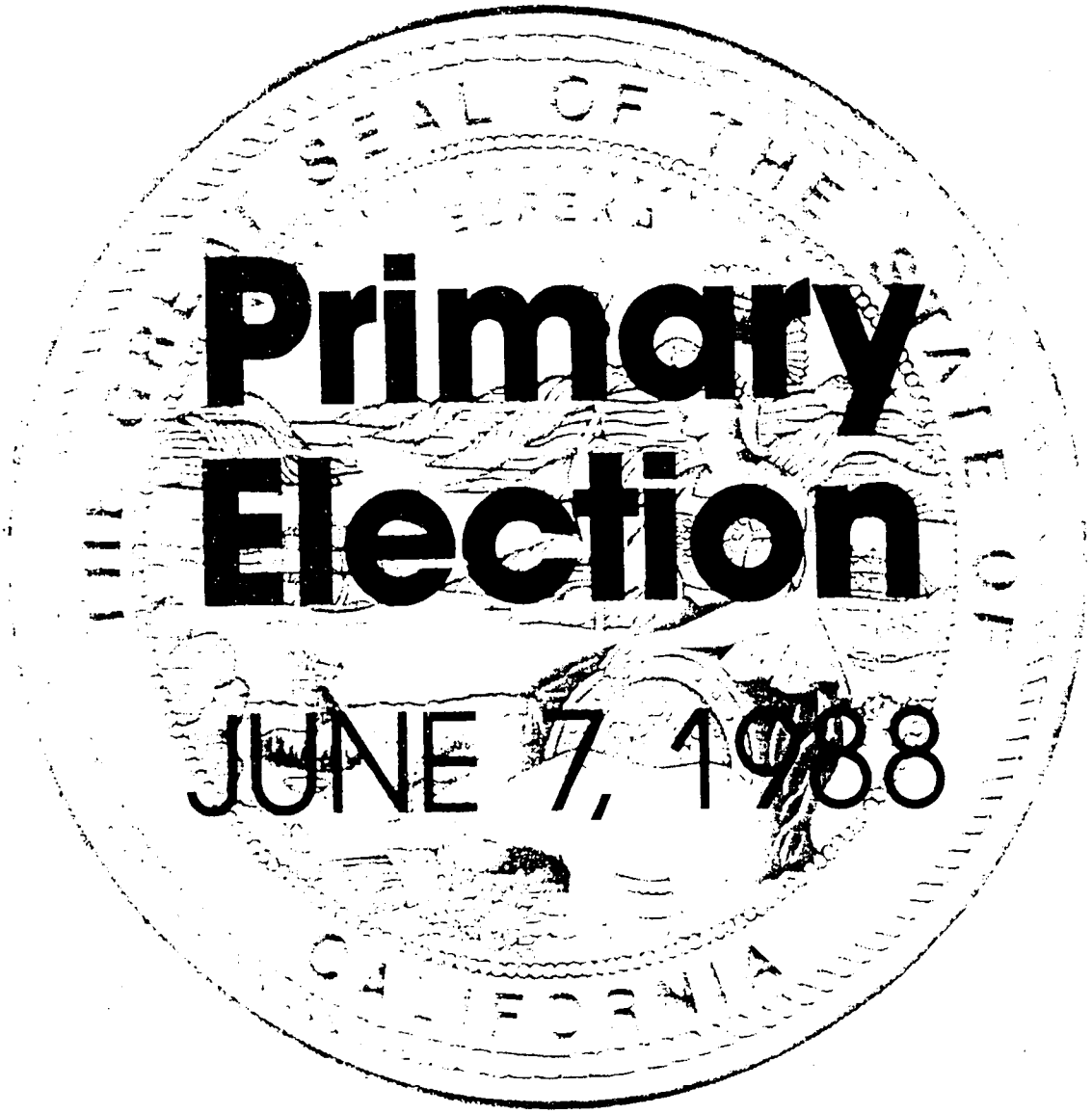
NANCY T. MULLAN, M.D.
Burbank

JOHN GRAUERHOLZ, M.D., FCAP
(Fellow, College of American Pathologists)

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "13"

California BALLOT PAMPHLET



Primary Election

JUNE 7, 1988

Compiled by MARCH FONG EU Secretary of State
Analyses by ELIZABETH G. HILL Legislative Analyst

69 Acquired Immune Deficiency Syndrome—AIDS. Initiative Statute

Official Title and Summary Prepared by the Attorney General

ACQUIRED IMMUNE DEFICIENCY SYNDROME — AIDS. INITIATIVE STATUTE. Declares that AIDS is an infectious, contagious and communicable disease and that the condition of being a carrier of the HTLV-III virus or other AIDS-causing viral agent is an infectious, contagious and communicable condition. Requires each be placed on the list of reportable diseases and conditions maintained by the Department of Health Services. Provides each is subject to quarantine and isolation statutes and regulations. Provides that Health Services Department personnel and all health officers shall fulfill the duties and obligations set forth in specified statutory provisions to preserve the public health from AIDS. Summary of Legislative Analyst's estimate of net state and local government fiscal impact: The net fiscal impact of this measure is unknown—and could vary greatly, depending on what actions are taken by health officers and the courts to implement it. If current practices used for the control of AIDS are continued, there would be no substantial change in direct costs. If the measure were interpreted to require changes in AIDS control measures by state local health officers, depending upon the level of activity, the cost of implementing it could range from millions to hundreds of millions of dollars.

Analysis by the Legislative Analyst

Background

Acquired immune deficiency syndrome (AIDS) is a disease that impairs the body's normal ability to resist harmful diseases and infections. The disease is caused by a virus—the human immunodeficiency virus (HIV)—that is spread through intimate sexual contact or exposure to the blood of an infected person. As of the preparation of this analysis, there is no readily available method to detect whether a person actually *has* the AIDS virus. A test does exist to detect whether a person has ever been *infected* with the AIDS virus and, as a result, has developed antibodies to it. A person infected with the AIDS virus may or may not develop the AIDS disease after a period of years. There is no known cure for AIDS, which is ultimately fatal.

AIDS became a recognized disease in 1981. Since then almost 12,000 persons in California have been diagnosed as having this disease, and about 7,000 of them have died. The State Department of Health Services estimates that possibly 500,000 persons in California are currently infected with the AIDS virus. The department estimates that by 1991 a total of approximately 50,000 AIDS cases will have been identified in the 10 years since AIDS became a recognized disease.

Existing Laws Covering Communicable Diseases. Local health officers have broad authority to take actions they believe are necessary to protect public health and prevent the spread of disease-causing organisms. However, this broad authority is limited to situations where there is a reasonable belief that the individual affected has or may have the disease and poses a danger to the public. The kind of action taken by health officers varies, depending on how easily an organism is spread from one person to another. For example, to prevent the spread of a disease, local health officers may require isolation of infected or diseased persons, and quarantine of exposed persons. In addition, persons infected with a disease-causing organism may be excluded from schools for the duration of the infection and excluded from food handling jobs. In some cases, these actions may be taken with respect to persons suspected of having the infection or the disease.

Current AIDS Reporting Requirements. Physicians and other health care providers are now required to report the names of persons who have certain listed communicable diseases to local health officers who, in turn, report the cases to the State Department of Health Services. As of the preparation of this analysis, AIDS is not on the list of communicable diseases that must be reported to local health officers. However, AIDS is being reported under a regulation that requires an unusual disease, not listed as a communicable disease, to be reported by local health officers. Under other provisions of law, hospitals are required to report the names of persons who have AIDS to local health officers who, in turn, report the cases to the State Department of Health Services.

With limited exceptions, existing law does not allow the release of the names or other identifying information for persons who take a blood test to determine the presence of antibodies to the AIDS virus. This test indicates that a person has been infected with the virus. Counties must report to the state the number of cases in which blood tests performed at certain facilities reveal that a person has been infected with the virus.

According to the State Department of Health Services, persons who have AIDS and persons who are capable of spreading the AIDS virus are subject to existing communicable disease laws. However, no health officer has ever taken any official action to require persons infected with the AIDS virus to be isolated or quarantined, because there is no medical evidence which demonstrates that the AIDS virus is transmitted by casual contact with an infected person. In addition, no health officer has recommended excluding persons with AIDS, or those who are capable of spreading AIDS, from schools or jobs.

Proposal

This measure declares that AIDS and the "condition of being a carrier" of any virus that causes AIDS are

communicable diseases. The measure also requires the State Department of Health Services to add these conditions to the list of diseases that must be reported. The effect of these provisions would be to require that the names of those who are "carriers of the AIDS virus," in addition to those who have the disease, be reported. No test to determine whether a person is a "carrier of the AIDS virus" is readily available. It is likely, however, that the HIV antibody test would be interpreted as a test for the AIDS virus for purposes of the measure, because medical professionals use the test in this manner.

If the measure is interpreted to require reporting the names of individuals who test positive for the HIV antibody, the measure would affect existing laws related to testing. First, the measure would require certain state-funded testing programs to obtain the names of persons receiving the tests in order to facilitate reporting to local health officers as mandated by the measure. Currently, these tests are provided on an anonymous basis. Second, the measure would require release of these names to local health officers if the test shows that the person has the HIV antibody.

The measure also states that the Department of Health Services and all health officers "shall fulfill all of the duties and obligations specified" under the applicable laws "in a manner consistent with the intent of this act." Although the meaning of this language could be subject to two different interpretations, it most likely means that the laws and regulations which currently apply to other communicable diseases shall also apply to AIDS and the condition of being a carrier" of the AIDS virus. Thus, health officers would continue to exercise their discretion in taking actions necessary to control this disease. Based on existing medical knowledge and health department practices, few, if any, AIDS patients and carriers of the AIDS virus would be placed in isolation or under quarantine. Similarly, few, if any, persons would be excluded from schools or food handling jobs. If, however, the language is interpreted as placing new requirements on health officers, it could result in new actions such as expanding testing programs for the AIDS virus, imposing isolation or quarantine of persons who have the disease, and excluding persons infected with the AIDS virus from schools and food handling positions.

Fiscal Effect

The fiscal effect of this measure could vary greatly, depending on how it would be interpreted by state and local health officers and the courts. If current practices used for the control of AIDS are continued, there would be no substantial net change in state and local costs as a *direct* result of this measure. Under this circumstance, if the AIDS antibody test is interpreted as demonstrating that a person is a carrier of AIDS, the primary effect of this measure would be to require the reporting of persons who are carriers of the virus that causes AIDS.

The fiscal impact could be very substantial, however, if the measure were interpreted to require changes in AIDS control measures by state and local health officers, either voluntarily or as a result of a change in medical knowledge on how the disease is spread, or as a result of court decisions that mandate certain control measures. Ultimately, the fiscal impact would depend on the level of activity that state and local health officers might undertake with respect to (1) identifying, isolating, and quarantining persons infected with the virus, or having the disease, and (2) excluding those persons from schools or food handling positions. The cost of implementing these actions could range from millions of dollars to hundreds of millions of dollars per year.

In summary, the net fiscal impact of this measure is unknown—and could vary greatly, depending on what actions are taken by health officers and the courts to implement this measure.

Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure proposes to add new provisions to the law; therefore, the new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. The purpose of this act is to:

(a) Enforce and confirm the declaration of the California Legislature set forth in Health and Safety Code Section 195 that acquired immune deficiency syndrome (AIDS) is serious and life threatening to men and women from all segments of society, that AIDS is usually lethal and that it is caused by an infectious agent with a high concentration of cases in California;

(b) Protect victims of acquired immune deficiency syndrome (AIDS), members of their families and local communities, and the public health at large; and

(c) Utilize the existing structure of the State Department of Health Services and local health officers and the statutes and regulations under which they serve to preserve the public health from acquired immune deficiency syndrome (AIDS).

SECTION 2. Acquired immune deficiency syndrome (AIDS) is an infectious, contagious and communicable disease and the condition of being a carrier of the HTLV-III virus or any other viral agent which may cause acquired immune deficiency syndrome (AIDS) is an infectious, contagious and communicable condition and both shall be placed and maintained by the director of the Department of Health Services on the list of reportable diseases and conditions mandated by Health and Safety Code Section 3123, and both shall be included within the provisions of Division 4, of such code and the rules and regulations set forth in Administrative Code Title 17, Part 1, Chapter 4, Subchapter 1, and all personnel of the Department of Health Services and all health officers shall fulfill all of the duties and obligations specified in each and all of the sections of said statutory division and administrative code subchapter in a manner consistent with the intent of this Act, as shall all other persons identified in said provisions.

SECTION 3. In the event that any section, subsection or portion thereof of this Act is deemed unconstitutional by a proper court of law, then that section, subsection or portion thereof shall be stricken from the Act and all other sections, subsections and portions thereof shall remain in force, alterable only by the people, according to process.

69 Acquired Immune Deficiency Syndrome—AIDS. Initiative Statute

Argument in Favor of Proposition 69

Proposition 69 extends existing public health codes for communicable diseases to AIDS and AIDS virus carriers. This means that the same public health codes that already protect you and your family from other dangerous diseases will protect you from AIDS. Proposition 69 will keep AIDS out of our schools, out of commercial food establishments, and give health officials the power to test and quarantine where needed. These measures are not new; they are the same health measures applied, *by law*, every day, to every other contagious disease.

Today AIDS is out of control. Present "policy" is a disaster. There were about 500,000 AIDS carriers in California in 1985, according to health authorities. At that time the number of cases of this highly contagious disease was doubling approximately every 6–12 months. Even assuming that the doubling rate had slowed to every 24 months, this would mean an estimated 1 million Californians infected with the AIDS virus today. Many of these newly infected persons can thank those who fought against Proposition 64 for their tragic condition.

The number of "unexplained" AIDS cases—cases not in "high-risk" groups, such as homosexuals and intravenous drug users—continues to grow at alarming rates. Indeed, the majority of cases worldwide fall into no identifiable "risk group" whatsoever. The AIDS virus has been found living in many bodily fluids, including blood, saliva, respiratory fluids, sweat, and tears, and it can survive upwards of seven days outside the body. There presently exists no cure for the sick, and no vaccination for the healthy. It is 100% lethal.

AIDS is the gravest public health threat our nation has ever faced. Traditional California public health law clearly states that certain proven public health measures *must* be taken to protect the public from *any* communicable disease, and no competent medical professional denies AIDS is "communicable." Nevertheless, politicians and special interest groups have circumvented the public health laws. California's current "AIDS testing confidentiality" statute even prohibits doctors from disclosing AIDS infection status to health authorities, endangering medical and law enforcement personnel, and the general public. For the first time in our history, a deadly disease is being treated as a "civil rights" issue, rather than as a public health issue.

Under present policy, since health officials generally do not know who is infected, there is little they can do either to prevent the infected person from infecting others, or to get that person proper medical attention before they develop full AIDS. Many who spoke against Proposition 64 now call for testing and contact tracing. Had it passed, these measures would already be in effect. How many more Californians must become sick and die before we act to stop this epidemic?

The medical facts are clear. The law is clear. Common sense agrees. You and your family have the right to protection from *all* contagious diseases, including AIDS—the deadliest of them all. If you agree, vote YES on Proposition 69.

KHUSHRO GHANDHI
California Director, National Democratic Policy Committee (NDPC), and Member, Los Angeles County Democratic Party Central Committee

JOHN GRAUERHOLZ, M.D., F.C.A.P.
(Fellow, College of American Pathologists)

LYNDON H. LAROUCHE, JR.
Candidate for the 1988 Democratic Party Presidential Nomination

Rebuttal to Argument in Favor of Proposition 69

They're at it again, spreading the same misinformation and falsehoods that were rejected overwhelmingly by California voters in 1986.

We urge you to vote NO on Proposition 69.

Don't be misled by the proponents' "facts." Medical evidence proves that AIDS is not "highly contagious" like other diseases. No one has contracted AIDS through the air, through food or other casual contact. There is no "alarming" increase in "unexplained" AIDS cases. The proponents' "1 million AIDS cases" is a total fiction.

Make no mistake about it. AIDS is a serious public health crisis, requiring vast increases in governmental funding and action. But the last thing we need is an irrational measure like Proposition 69 which could cost billions of dollars to enforce and only make the epidemic worse.

Proposition 69 threatens the health of all Californians. It would cripple medical researchers seeking a cure and vaccine for AIDS. It could also result in the testing, unemployment and quarantine of millions of Californians—including many who are perfectly healthy.

We can't allow public health policy to be dictated by political extremists with no medical training. Let's stop this madness once and for all.

Proposition 69 won't prevent a single case of AIDS. It is designed merely to instill panic to advance the political career of a man who is under indictment on federal criminal charges.

Don't let the proponents play games with our lives. Vote NO on Proposition 69.

LAURENS WHITE, M.D.
President, California Medical Association

MARILYN RODGERS
President, California Nurses Association

C. DUANE DAUNER
President, California Association of Hospitals and Health Systems

Argument Against Proposition 69

Proposition 69 is virtually identical to a measure which was defeated by California voters in 1986 by the overwhelming margin of 72% to 28%.

Proposition 69 must be defeated again for the safety and public health of all Californians. It is an irrational, inappropriate and misguided approach to a serious public health problem. The proponents of this measure want to create an atmosphere of fear, misunderstanding, inadequate health care and panic. In fact, the name of their campaign committee is PANIC.

Public health decisions must be left in the hands of the medical profession and public health officials or we will endanger the lives of Californians. The California Medical Association, Nurses Association and Hospital and Health Systems Association, as well as public health officials recognize the danger of allowing political extremists to dictate state public health and medical policy.

This type of repressive and discriminatory action forced upon Californians by the proponents will not serve to limit the AIDS problem, but rather could prolong the spread of this terrible disease. The fear of quarantine or other discriminatory measures, including loss of jobs, will make people reluctant to be tested. Fearing social isolation, individuals at risk will avoid early medical intervention and testing, driving AIDS underground.

Enforcement of this measure could cost the taxpayers billions of dollars to quarantine and isolate AIDS carriers and could require public health officials to do so. Proposition 69 could also require blood tests of every schoolchild and teacher. Mandatory testing and quarantine would serve no medical purpose because there are no documented cases of AIDS ever being transmitted by casual contact.

Californians from all walks of life know they must unite to end this dreadful epidemic. Californians can be proud that doctors and public health officials have acted in a professional, rational and responsible manner to protect the health of Californians and have taken all appropriate precautions as they are needed. This kind of initiative can only divide, create panic and force thousands not to get tested or treated because of fear.

Join us in once again rejecting the extremes of the proponents. Vote NO on Proposition 69.

LAURENS WHITE, M.D.
President, California Medical Association

MARILYN RODGERS
President, California Nurses Association

C. DUANE DAUNER
President, California Association of Hospitals and Health Systems

Rebuttal to Argument Against Proposition 69

The argument against Proposition 69 is actually an argument against use of traditional public health measures to stop *any* disease. AIDS is a disease of persons infected with the AIDS virus. Infected persons infect uninfected persons, and the infection is spreading. Medical literature has documented cases of nonsexual, non-needle-transmitted infection. At least three health care workers, and a mother caring for an infected child, may pay with their lives for discovering that needles or sexual intercourse are not necessary to transmit AIDS.

Research indicates that other infections in AIDS virus carriers, like tuberculosis or herpes, can activate the AIDS virus and lead to full-blown AIDS. Identification of infected persons makes treatment of such "coinfections" possible and may forestall progression to full AIDS.

There is no vaccine, and no cure, for this deadly disease, but research has provided better tests. The opponents of Proposition 69 oppose widespread testing to identify and treat those at risk of developing AIDS and infecting others. Their "policy" makes it virtually impossible to treat and educate those most "at risk." The opponents' "policy" is to allow the uninfected to become infected, the infected to become sick, and the sick to die, preferably cheaply.

Proposition 69 enables health authorities to use traditional public health measures to stop AIDS. The cost is small compared to the cost of the growing number of AIDS cases resulting from the present nonpolicy.

Restore a traditional public health policy in California. Vote YES on Proposition 69.

KHUSHRO GHANDHI
California Director, National Democratic Policy Committee (NDPC), and Member, Los Angeles County Democratic Party Central Committee

JOHN GRAUERHOLZ, M.D., F.C.A.P.
(Fellow, College of American Pathologists)

LYNDON H. LAROUCHE, JR.
Candidate for the 1988 Democratic Party Presidential Nomination

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "14"

CALIFORNIA
GENERAL ELECTION
TUESDAY, NOVEMBER 4, 2008

★ OFFICIAL VOTER INFORMATION GUIDE ★

Certificate of Correctness

I, Debra Bowen, Secretary of State of the State of California, do hereby certify that the measures included herein will be submitted to the electors of the State of California at the General Election to be held throughout the State on November 4, 2008, and that this guide has been correctly prepared in accordance with the law.

Witness my hand and the Great Seal of the State in Sacramento, California, on this 11th day of August, 2008.

Debra Bowen

Debra Bowen
Secretary of State

PROPOSITION **8**

ELIMINATES RIGHT OF SAME-SEX COUPLES TO MARRY. INITIATIVE CONSTITUTIONAL AMENDMENT.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

ELIMINATES RIGHT OF SAME-SEX COUPLES TO MARRY. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Changes the California Constitution to eliminate the right of same-sex couples to marry in California.
- Provides that only marriage between a man and a woman is valid or recognized in California.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Over the next few years, potential revenue loss, mainly from sales taxes, totaling in the several tens of millions of dollars, to state and local governments.
- In the long run, likely little fiscal impact on state and local governments.

PROP 8 ELIMINATES RIGHT OF SAME-SEX COUPLES TO MARRY. INITIATIVE CONSTITUTIONAL AMENDMENT.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

In March 2000, California voters passed Proposition 22 to specify in state law that only marriage between a man and a woman is valid or recognized in California. In May 2008, the California Supreme Court ruled that the statute enacted by Proposition 22 and other statutes that limit marriage to a relationship between a man and a woman violated the equal protection clause of the California Constitution. It also held that individuals of the same sex have the right to marry under the California Constitution. As a result of the ruling, marriage between individuals of the same sex is currently valid or recognized in the state.

PROPOSAL

This measure amends the California Constitution to specify that only marriage between a man and a woman is valid or recognized in California. As a result, notwithstanding the California Supreme Court ruling of May 2008, marriage would be limited to individuals of the opposite sex, and individuals of the same sex would not have the right to marry in California.

FISCAL EFFECTS

Because marriage between individuals of the same sex is currently valid in California, there would likely be an increase in spending on weddings by same-sex couples in California over the next few years. This would result in increased revenue, primarily sales tax revenue, to state and local governments.

By specifying that marriage between individuals of the same sex is not valid or recognized, this measure could result in revenue loss, mainly from sales taxes, to state and local governments. Over the next few years, this loss could potentially total in the several tens of millions of dollars. Over the long run, this measure would likely have little fiscal impact on state and local governments.

For text of Proposition 8, see page 128.

PROP 8 ELIMINATES RIGHT OF SAME-SEX COUPLES TO MARRY. INITIATIVE CONSTITUTIONAL AMENDMENT.

★ ARGUMENT IN FAVOR OF PROPOSITION 8 ★

Proposition 8 is simple and straightforward. It contains the same 14 words that were previously approved in 2000 by over 61% of California voters: "Only marriage between a man and a woman is valid or recognized in California."

Because four activist judges in San Francisco wrongly overturned the people's vote, we need to pass this measure as a constitutional amendment to RESTORE THE DEFINITION OF MARRIAGE as a man and a woman.

Proposition 8 is about preserving marriage; *it's not an attack on the gay lifestyle.* Proposition 8 doesn't take away any rights or benefits of gay or lesbian domestic partnerships. Under California law, "domestic partners shall have the same rights, protections, and benefits" as married spouses. (Family Code § 297.5.) There are NO exceptions. Proposition 8 WILL NOT change this.

YES on Proposition 8 does three simple things:

It restores the definition of marriage to what the vast majority of California voters already approved and human history has understood marriage to be.

It overturns the outrageous decision of four activist Supreme Court judges who ignored the will of the people.

It protects our children from being taught in public schools that "same-sex marriage" is the same as traditional marriage.

Proposition 8 protects marriage as an essential institution of society. While death, divorce, or other circumstances may prevent the ideal, the best situation for a child is to be raised by a married mother and father.

The narrow decision of the California Supreme Court isn't just about "live and let live." State law may require teachers to instruct children as young as kindergarteners about marriage. (Education Code § 51890.) If the gay marriage ruling is not overturned, TEACHERS COULD BE REQUIRED to teach young children there is *no difference* between gay marriage and traditional marriage.

We should not accept a court decision that may result in public schools teaching our kids that gay marriage is okay. That is an issue for parents to discuss with their children according to their own values and beliefs. *It shouldn't be forced on us against our will.*

Some will try to tell you that Proposition 8 takes away legal rights of gay domestic partnerships. That is false. Proposition 8 DOES NOT take away any of those rights and does not interfere with gays living the lifestyle they choose.

However, while gays have the right to their private lives, *they do not have the right to redefine marriage* for everyone else.

CALIFORNIANS HAVE NEVER VOTED FOR SAME-SEX MARRIAGE. If gay activists want to legalize gay marriage, they should put it on the ballot. Instead, they have gone behind the backs of voters and convinced four activist judges in San Francisco to redefine marriage for the rest of society. That is the wrong approach.

Voting YES on Proposition 8 RESTORES the definition of marriage that was approved by over 61% of voters. Voting YES overturns the decision of four activist judges. Voting YES *protects our children.*

Please vote YES on Proposition 8 to RESTORE the meaning of marriage.

RON PRENTICE, President
California Family Council
ROSEMARIE "ROSIE" AVILA, Governing Board Member
Santa Ana Unified School District
BISHOP GEORGE McKINNEY, Director
Coalition of African American Pastors

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 8 ★

Don't be tricked by scare tactics.

- PROP. 8 DOESN'T HAVE ANYTHING TO DO WITH SCHOOLS

There's NOT ONE WORD IN 8 ABOUT EDUCATION. In fact, local school districts and parents—not the state—develop health education programs for their schools.

NO CHILD CAN BE FORCED, AGAINST THE WILL OF THEIR PARENTS, TO BE TAUGHT ANYTHING about health and family issues. CALIFORNIA LAW PROHIBITS IT.

And NOTHING IN STATE LAW REQUIRES THE MENTION OF MARRIAGE IN KINDERGARTEN!

It's a smokescreen.

- DOMESTIC PARTNERSHIPS and MARRIAGE AREN'T THE SAME.

CALIFORNIA STATUTES CLEARLY IDENTIFY NINE REAL DIFFERENCES BETWEEN MARRIAGE AND DOMESTIC PARTNERSHIPS. Only marriage provides the security that spouses provide one another—it's why people get married in the first place!

Think about it. Married couples depend on spouses when they're sick, hurt, or aging. They accompany them into ambulances or hospital rooms, and help make life-and-death decisions, with no questions asked. ONLY MARRIAGE ENDS THE CONFUSION AND GUARANTEES THE CERTAINTY COUPLES CAN COUNT ON IN TIMES OF GREATEST NEED.

Regardless of how you feel about this issue, we should guarantee the same fundamental freedoms to every Californian.

- PROP. 8 TAKES AWAY THE RIGHTS OF GAY AND LESBIAN COUPLES AND TREATS THEM DIFFERENTLY UNDER THE LAW.

Equality under the law is one of the basic foundations of our society.

Prop. 8 means one class of citizens can enjoy the dignity and responsibility of marriage, and another cannot. That's unfair.

PROTECT FUNDAMENTAL FREEDOMS. SAY NO TO PROP. 8.

www.NoonProp8.com

ELLYNE BELL, School Board Member
Sacramento City Schools
RACHAEL SALCIDO, Associate Professor of Law
McGeorge School of Law
DELAINE EASTIN
Former California State Superintendent of Public Instruction

PROP 8 ELIMINATES RIGHT OF SAME-SEX COUPLES TO MARRY. INITIATIVE CONSTITUTIONAL AMENDMENT.

★ ARGUMENT AGAINST PROPOSITION 8 ★

OUR CALIFORNIA CONSTITUTION—the law of our land—SHOULD GUARANTEE THE SAME FREEDOMS AND RIGHTS TO EVERYONE—NO ONE group SHOULD be singled out to BE TREATED DIFFERENTLY.

In fact, our nation was founded on the principle that all people should be treated equally. EQUAL PROTECTION UNDER THE LAW IS THE FOUNDATION OF AMERICAN SOCIETY.

That's what this election is about—equality, freedom, and fairness, for all.

Marriage is the institution that conveys dignity and respect to the lifetime commitment of any couple. PROPOSITION 8 WOULD DENY LESBIAN AND GAY COUPLES that same DIGNITY AND RESPECT.

That's why Proposition 8 is wrong for California.

Regardless of how you feel about this issue, the freedom to marry is fundamental to our society, just like the freedoms of religion and speech.

PROPOSITION 8 MANDATES ONE SET OF RULES FOR GAY AND LESBIAN COUPLES AND ANOTHER SET FOR EVERYONE ELSE. That's just not fair. OUR LAWS SHOULD TREAT EVERYONE EQUALLY.

In fact, the government has no business telling people who can and cannot get married. Just like government has no business telling us what to read, watch on TV, or do in our private lives. We don't need Prop. 8; WE DON'T NEED MORE GOVERNMENT IN OUR LIVES.

REGARDLESS OF HOW ANYONE FEELS ABOUT MARRIAGE FOR GAY AND LESBIAN COUPLES, PEOPLE SHOULD NOT BE SINGLED OUT FOR UNFAIR TREATMENT UNDER THE LAWS OF OUR STATE. Those committed and loving couples who want to accept the responsibility that comes with marriage should be treated like everyone else.

DOMESTIC PARTNERSHIPS ARE NOT MARRIAGE.

When you're married and your spouse is sick or hurt, there is no confusion: you get into the ambulance or hospital room with no questions asked. IN EVERYDAY LIFE, AND ESPECIALLY IN EMERGENCY SITUATIONS, DOMESTIC PARTNERSHIPS ARE SIMPLY NOT ENOUGH. Only marriage provides the certainty and the security that people know they can count on in their times of greatest need.

EQUALITY UNDER THE LAW IS A FUNDAMENTAL CONSTITUTIONAL GUARANTEE. Prop. 8 separates one group of Californians from another and excludes them from enjoying the same rights as other loving couples.

Forty-six years ago I married my college sweetheart, Julia. We raised three children—two boys and one girl. The boys are married, with children of their own. Our daughter, Liz, a lesbian, can now also be married—if she so chooses.

All we have ever wanted for our daughter is that she be treated with the same dignity and respect as her brothers—with the same freedoms and responsibilities as every other Californian.

My wife and I never treated our children differently, we never loved them any differently, and now the law doesn't treat them differently, either.

Each of our children now has the same rights as the others, to choose the person to love, commit to, and to marry.

Don't take away the equality, freedom, and fairness that everyone in California—straight, gay, or lesbian—deserves.

Please join us in voting NO on Prop. 8.

SAMUEL THORON, Former President
Parents, Families and Friends of Lesbians and Gays
JULIA MILLER THORON, Parent

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 8 ★

Proposition 8 is about traditional marriage; it is not an attack on gay relationships. Under California law gay and lesbian domestic partnerships are treated equally; they already have the same rights as married couples. Proposition 8 does not change that.

What Proposition 8 does is restore the meaning of marriage to what human history has understood it to be and over 61% of California voters approved just a few years ago.

Your YES vote ensures that the will of the people is respected. It overturns the flawed legal reasoning of four judges in San Francisco who wrongly disregarded the people's vote, and ensures that gay marriage can be legalized only through a vote of the people.

Your YES vote ensures that parents can teach their children about marriage according to their own values and beliefs without conflicting messages being forced on young children in public schools that gay marriage is okay.

Your YES vote on Proposition 8 means that only marriage between a man and a woman will be valid or recognized in California, regardless of when or where performed. But Prop. 8 will NOT take away any other rights or benefits of gay couples.

Gays and lesbians have the right to live the lifestyle they choose, but they do not have the right to redefine marriage for everyone else. Proposition 8 respects the rights of gays while still reaffirming traditional marriage.

Please vote YES on Proposition 8 to RESTORE the definition of marriage that the voters already approved.

DR. JANE ANDERSON, M.D., Fellow
American College of Pediatricians
ROBERT BOLINGBROKE, Council Commissioner
San Diego-Imperial Council, Boy Scouts of America
JERALEE SMITH, Director of Education/California
Parents and Friends of Ex-Gays and Gays (PFOX)

consistent with Section 25740.1, the Public Utilities Commission shall encourage and give the highest priority to allocations for the construction of, or payment to supplement the construction of, any new or modified electric transmission facilities necessary to facilitate the state achieving its renewables portfolio standard targets.

(c) All projects receiving funding, in whole or in part, pursuant to this section shall be considered public works projects subject to the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and the Department of Industrial Relations shall have the same authority and responsibility to enforce those provisions as it has under the Labor Code.

SEC. 28. Section 25745 is added to the Public Resources Code, to read:

25745. The Energy Commission shall use its best efforts to attract and encourage investment in solar and clean energy resources, facilities, research and development from companies based in the United States to fulfill the purposes of this chapter.

SEC. 29. Section 25751.5 is added to the Public Resources Code, to read:

25751.5. (a) The Solar and Clean Energy Transmission Account is hereby established within the Renewable Resources Trust Fund.

(b) Beginning January 1, 2009, the total annual adjustments adopted pursuant to subdivision (d) of Section 399.8 of the Public Utilities Code shall be allocated to the Solar and Clean Energy Transmission Account.

(c) Funds in the Solar and Clean Energy Transmission Account shall be used, in whole or in part, for the following purposes:

(1) The purchase of property or right-of-way pursuant to the commission's authority under Chapter 8.9 (commencing with Section 25790).

(2) The construction of, or payment to supplement the construction of, any new or modified electric transmission facilities necessary to facilitate the state achieving its renewables portfolio standard targets.

(d) Title to any property or project paid for in whole pursuant to this section shall vest with the commission. Title to any property or project paid for in part pursuant to this section shall vest with the commission in a part proportionate to the commission's share of the overall cost of the property or project.

(e) Funds deposited in the Solar and Clean Energy Transmission Account shall be used to supplement, and not to supplant, existing state funding for the purposes authorized by subdivision (c).

(f) All projects receiving funding, in whole or in part, pursuant to this section shall be considered public works projects subject to the provisions of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and the Department of Industrial Relations shall have the same authority and responsibility to enforce those provisions as it has under the Labor Code.

SEC. 30. Chapter 8.9 (commencing with Section 25790) is added to Division 15 of the Public Resources Code, to read:

25790. The Energy Commission may, for the purposes of this chapter, purchase and subsequently sell, lease to another party for a period not to exceed 99 years, exchange, subdivide, transfer, assign, pledge, encumber, or otherwise dispose of any real or personal property or any interest in property. Any such lease or sale shall be conditioned on the development and use of the property for the generation and/or transmission of renewable energy.

25791. Any lease or sale made pursuant to this chapter may be made without public bidding but only after a public hearing.

SEC. 31. Severability

The provisions of this act are severable. If any provision of this act, or part thereof, is for any reason held to be invalid under state or federal law, the remaining provisions shall not be affected, but shall remain in full force and effect.

SEC. 32. Amendment

The provisions of this act may be amended to carry out its purpose and intent by statutes approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

SEC. 33. Conflicting Measures

(a) This measure is intended to be comprehensive. It is the intent of the people that in the event that this measure and another initiative measure relating to the same subject appear on the same statewide election ballot, the provisions of the other measure or measures are deemed to be in conflict with this measure. In the event this measure shall receive the greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force of law.

SEC. 34. Legal Challenge

Any challenge to the validity of this act must be filed within six months of the effective date of this act.

PROPOSITION 8

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure expressly amends the California Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

SECTION 1. Title

This measure shall be known and may be cited as the "California Marriage Protection Act."

SECTION 2. Section 7.5 is added to Article I of the California Constitution, to read:

SEC. 7.5. Only marriage between a man and a woman is valid or recognized in California.

PROPOSITION 9

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends a section of the California Constitution and amends and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

VICTIMS' BILL OF RIGHTS ACT OF 2008: MARSY'S LAW

SECTION 1. TITLE

This act shall be known, and may be cited as, the "Victims' Bill of Rights Act of 2008: Marsy's Law."

SECTION 2. FINDINGS AND DECLARATIONS

The People of the State of California hereby find and declare all of the following:

1. Crime victims are entitled to justice and due process. Their rights include, but are not limited to, the right to notice and to be heard during critical stages of the justice system; the right to receive restitution from the criminal wrongdoer; the right to be reasonably safe throughout the justice process; the right to expect the government to properly fund the criminal justice system, so that the rights of crime victims stated in these Findings and Declarations and justice itself are not eroded by inadequate resources; and, above all, the right to an expeditious and just punishment of the criminal wrongdoer.

2. The People of the State of California declare that the "Victims' Bill of Rights Act of 2008: Marsy's Law" is needed to remedy a justice system that fails to fully recognize and adequately enforce the rights of victims of crime. It is named after Marsy, a 21-year-old college senior at U.C. Santa Barbara who was preparing to pursue a career in special education for handicapped children and had her whole life ahead of her. She was murdered on November 30, 1983. Marsy's Law is written on behalf of her mother, father, and brother, who were often treated as though they had no rights, and inspired by hundreds of thousands of victims of crime who have experienced the additional pain and frustration of a criminal justice system that too often fails to afford victims even the most basic of rights.

3. The People of the State of California find that the "broad reform" of the criminal justice system intended to grant these basic rights mandated in the Victims' Bill of Rights initiative measure passed by the electorate as Proposition 8 in 1982 has not occurred as envisioned by the people. Victims of crime continue to be denied rights to justice and due process.

4. An inefficient, overcrowded, and arcane criminal justice system has failed to build adequate jails and prisons, has failed to efficiently conduct court proceedings, and has failed to expeditiously finalize the sentences and punishments of criminal wrongdoers. Those criminal wrongdoers are being released from custody after serving as little as 10 percent of the sentences imposed and determined to be appropriate by judges.

5. Each year hundreds of convicted murderers sentenced to serve life in prison seek release on parole from our state prisons. California's "release from prison parole procedures" torture the families of murdered victims and waste

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "15"

REPORT

OF

THE DEBATES

IN THE

CONVENTION OF CALIFORNIA,

ON THE

FORMATION OF THE STATE CONSTITUTION,

IN SEPTEMBER AND OCTOBER, 1849.

BY J. ROSS BROWNE.

WASHINGTON:
PRINTED BY JOHN T. TOWERS.
1850.

the body of the people, is from the fact of being made a legislator, free from all the impurities of clay; does he not know that that man is still one of the people, even more unleavened than the mass from which he came, and that he is the last man on the face of the earth to restrain the improper action of the people. Now, Mr. President, as to republican doctrine. I thought the republican doctrine was, that the people, like the king, could do no wrong. Certainly when compared with a petty Legislature, they can do no wrong. The master can do no wrong in the eyes of the servant—that is my doctrine, and I have always maintained that principle, not that I mean to say that all mankind may not, even if they were unanimous, do wrong, but politically, the republican doctrine of the present day that the people can do no wrong; that is, that they are more right than individuals; that the majority are more likely to be right than the minority; and that it is not for these servants of the people, those who have sworn to obey them, to talk about putting a bridle in the mouths of their masters.

Mr. LIPPITT. As I have been personally appealed to, I hope the House will not object to my saying a word or two in reply to the gentleman from Monterey. He says that under this first section the Legislature becomes a Convention, with delegated powers to adopt a Constitution. I maintain that they do not come there receiving instructions to form a Constitution; they come to pass laws; their constituents send them there to pass laws upon a variety of subjects. But when the people elect delegates to a Convention to form a Constitution, they elect them for that purpose and no other. The members coming from the people for that purpose are supposed to know what sort of provisions this people want incorporated in this Constitution, and what sort excluded from it; but where a particular amendment is given to a Legislature, that Legislature have other matters that conflict with the will of their constituents. Many of them must be supposed to be sent there with more direct reference to the laws that they are to pass, than with reference to the particular amendment proposed to the Constitution. The gentleman's doctrine would abrogate all distinctions whatever between the original law of the land and the mere statutes, which can be repealed from one year to another. Such a doctrine will not do. It gives, in all cases, to the transient majority of the people, the power to unmake or to make a Constitution. What more does he give to the Legislature? In other words, the same power which is to make an ordinary law is to make a Constitution. Sir, it is the wisdom of the people of every one of the States that has incorporated restrictions and checks of this kind, against the will of a temporary majority of the people. In our own Constitution, in the Executive department, this very Convention has incorporated the veto power. What is this but a restricting power upon the will of the people? If a bill is passed by a majority of both Houses of the Legislature, a majority which must be supposed to represent the will of the majority, we allow the Governor to come in with a veto to check that expression, and require a two-thirds vote to make it a law. Checks of this kind are introduced into the Constitutions of all the States. The whole American people, whether they be republican or monarchical, have sanctioned this provision. Take up any Constitution you please, and you will find these checks upon the will of the people. I ask whether we, the delegates in this Convention, have not, in representing the people, a right to say that we, the people, will impose upon the temporary will of the majority such and such restraints with respect to our Constitution, as we are doing with respect to our laws. This veto power is a restraint upon the law-making power—a power far more easy to restrain than the Constitution-making power. The majority of the people when they have met together, either by themselves or representatives, to make a Constitution, have always introduced such checks upon the Constitution-making and Constitution-altering power, as to put it upon a more permanent basis than mere laws enacted by the Legislature. The people want some security that their organic law shall not be left at the mercy of the dominant political party of the State. I take it, sir, that at all times a bare majority of the people are on one side or the

other of the great political parties of the State; we know that the majority of each party is constantly changing from year to year. Every majority of the people when they come together to make a Constitution, know and consider that they themselves next year or the year after may be in the minority. They have their own interests to guard; they have the interests of the whole people to guard.

Mr. SHANNON. I have arisen merely on account of a dread I had. We all know the character of the representative from New York, (Mr. Sherwood,) and I feared my two friends, (Mr. Norton and Mr. Lippett,) had been advocating this so strenously that it might be in the Constitution of New York. But it is not. It has been stricken from the Constitution. The old Constitution requires a two-third vote, but the new one only requires a majority. Then comes Pennsylvania, then New Jersey, then Rhode Island, and half a dozen more, which do not require the two-third rule in any way. Some of them providing amendments to be made to the Constitution; others providing for conventions to be called by a majority of the Legislature, and a majority of the people. So much for New York. I would ask, Mr. President, what is the principle upon which our government is established? Is it not democratic that the majority shall rule; and what reason is there to put a restriction of this kind, denying the very first principle of our form of government? But this has been discussed here fully; and I would merely wish to state one idea that has occurred to me while listening to the gentleman from San Francisco, (Mr. Lippett,) and it is this: The fact that after giving the people the three months' notice in the first place, this amendment presented by a majority of the Legislature to the people, and then three months' notice given, and having this time to reflect upon it and make up their minds, and send back their instructions to the Legislature in favor of the amendments—that the same majority which elects them, and which approves of the amendments shall then cut itself off and defeat its own will. I think it is a most extraordinary doctrine.

Mr. ELLIS. In regard to this two-third vote which has been so highly deprecated here as being anti-republican, I beg leave to read what the Constitution of the United States says on the subject:

ART. V. The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State without its consent, shall be deprived of its equal suffrage in the Senate.

It required a two-third vote there; and I now move the previous question to see whether we can have a two-third vote here or not.

The previous question was ordered.

The question then being on the amendment of Mr. Jones, it was rejected by yeas 16, nays 21, as follows:

YEAS.—Messrs. Botts, Crosby, Dominguez, Dent, Hill, Jones, Larkin, McCarver, Ord, Price, Reid, Sutter, Shannon, Walker, Wozencraft, President—16.

NAYS.—Messrs. Aram, Brown, Carillo, Covarrubias, Dimmick, Ellis, Foster, Gilbert, Hanks, Hoppe, Hobson, Halleck, Lippitt, Norton, Pico, Rodriguez, Snyder, Sansevaine, Steuart, Tefft—21.

The first section, as reported, was then adopted.

Mr. BOTTS moved to strike out in the first line of the second section the words, "two-thirds," and to insert in lieu thereof the words, "a majority." The motion was, by yeas and nays, decided in the negative as follows:

YEAS.—Messrs. Botts, Crosby, Dent, Jones, Larkin, Moore, McDougal, Ord, Reid, Sutter, Snyder, Sherwood, Shannon, Walker, Wozencraft, President.—16.

NAYS.—Messrs. Aram, Brown, Carrillo, Covarrubias, Dimmick, Dominguez, Ellis, Foster, Gilbert, Gwin, Hanks, Hill, Hoppe, Hobson, Hollingsworth, Lippitt, McCarver, Norton, Price, Pico, Rodriguez, Stearns, Sansevaine, Steuart, Tefft—25.

tions so stringent as these, for not only do you have two separate Legislatures to pass upon it, but the last Legislature must pass it by a two-thirds vote. If gentlemen preach that up as democratic or republican doctrine, I must say I do not know what the doctrine is. If they preach it up as a specimen of liberal principles, I know not what liberality is. Sir, the majority, under proper restrictions, should have the right to rule. If the majority are dissatisfied with their Constitution, let them, as they may deem fit, alter and amend it. Put your restrictions of two legislatures; let them be chosen from the bosom of the people, and let the majority of the people three separate times, and three separate years, decide that it can be done; but do not say that one-third of a political party shall tell the majority what they shall and shall not do.

Mr. CROSBY. I hope the amendment will prevail, for if the majority can first create a Constitution, the same majority most certainly should have the right to change it.

Mr. LIPPITT. That is just the difference between the Constitution, or fundamental law of the land, and an ordinary law of the Legislature. Let the will of a majority of the people always make and unmake laws; they are changing from year to year; but do not let these changes—these transient changes, which are brought about by politicians for party purposes, party majorities in favor of a particular measure—affect your fundamental law. It would greatly militate against the permanent prosperity of the people. The laws of the State can be repealed at any time if they work badly; but if an alteration made in your Constitution is found to work badly, it will take years to correct it. Whether it be democratic, or republican, or otherwise, I would not leave it to the mere transient majority of the people; I would not leave the future interests of the whole people dependent upon that majority.

Mr. PRICE. I hope this amendment will prevail. I can see no reason why we should allow two-thirds of the Legislature to say whether the people should alter or amend their Constitution. By the section as drawn up, we refer back a resolution which is passed by one Legislature, and after a publication of that resolution three months before the meeting of a new Legislature, we require a two-thirds vote to pass it, and after it is passed the Constitution is not even then amended, but the amendment is at last referred to the people. This very clause is copied nearly verbatim from the proviso of the Constitution of New York, which requires only a majority.

Mr. HALLDOR. It is copied verbatim from the Constitution of Michigan.

Mr. PRICE. But New York is as good authority as Michigan, or Virginia, or any other State.

Mr. BOTTS. I should not say a word on this subject, but if I am compelled to vote I want to talk about it till I comprehend it. If I understand the proposition it is to enable the majority of the people to alter the Constitution. Yes, sir; I am now in earnest; it is to permit the majority of the people to make a Constitution. Who is making this Constitution? Two-thirds? Who is going to tell the majority of the people that they shall not make a Constitution, when it is a majority here that is speaking? Can it be done by any other than the majority of the people themselves? Shall the majority making a Constitution say that another majority shall not make a Constitution? The whole question is, who shall make Constitutions when Constitutions are to be made, a majority or a minority? I think one of the greatest errors of the day is the popular one expressed by my friend from San Francisco (Mr. Lippitt) that Constitutions are not to be lightly altered. Sir, the progress of improvement has altered every where, and in nothing more than political liberty; and nothing is more desirable than that the people should have the liberty to amend their written Constitution according to the progressive improvement under the science of political liberty. I wish, sir, that more of these restraints were taken off; that the people may have the facility of putting it down in black and white, and making it a law of the land. I put this

people to know what they are acting upon, and who will not make light and trivial amendments. When it is done, let it be done by such a majority of the people and the Legislature as will give full force to their action.

Mr. Tefft. Suicidal as the gentleman from Monterey (Mr. Botts) thinks this course, I think we will adopt it. I am as much in favor of referring all power to the people as any gentleman present, but this constant cry of the people too often assumes the aspect of demagogueism. Let political excitement run wild here as it has in every State of the Union, then you will find the absolute necessity of the two-third rule. It is of essential importance, that in amending the fundamental law of the land, men should return to their sober second thought—to that great balancing power by which questions so deeply concerning the interests of the whole people are decided. It has always been so in matters of so much importance, involving the welfare and prosperity of the State. And I think it is altogether unfounded to presume, after an expression of the will of the people, that a majority of two-thirds of both Houses of the Legislature will dare to say these amendments shall not be made. There are times, sir, when political excitement makes it absolutely necessary that the people should be restrained, and for the purpose of having this regulating check upon political parties, I shall certainly vote for the two-thirds rule.

Mr. Botts. I speak in answer to the first gentleman from San Francisco, (Mr. Lippitt.) I want to know, Mr. President, what the Legislature is after the people have said that it shall amend or re-make the Constitution, but a constant Convention. This way of amending the Constitution, avoids the usual mode of calling a Convention, and directs the Legislature by the determination of the people to have the Constitution altered. It becomes a Convention subject to the declared will of the people. A Convention is an assemblage of persons chosen to alter the Constitution; and the vote of the people asks that the Legislature shall be that Convention. The whole question then, comes to this: shall the Convention so formed, alter the Constitution by a vote of a majority or two-thirds? Now, if that question were put in its bare and naked form, who is there upon this floor who would vote for the two-thirds rule? If you provide, by the calling of this Convention to make a Constitution, who would propose that that Constitution should be made by a vote of two-thirds of the House only? Who would vote for it? And is not this Legislature a Convention to all intents and purposes? Mr. President, I charge, then, this thing; that your Constitution does not provide for the calling of a Convention in accordance with the will of the people.

Mr. Norton. The following section provides for it.

Mr. Botts. Very well. I do not care what the next section provides. This section provides that, under certain circumstances, the Legislature becomes a Convention; that is to say, it provides that the Constitution shall be passed upon by the members of the Legislature; and what reason is there for declaring that, in that Convention or Legislature, the Constitution shall not be altered except by a vote of two-thirds, and in the next section, by a majority. Do you provide in the next section that a vote of two-thirds shall make a Constitution? The gentleman from San Francisco says if a majority of the people are in favor of it, they can always elect a Legislature to amend it. One hundred thousand here are in favor of curtailing the power of the Legislature. How are less than two-thirds of the people to instruct two-thirds of their representatives? If the gentleman had argued thus: that whenever two-thirds of the people are in favor of a thing, it would be proper that they should be able to instruct two-thirds of the Legislature, I would grant it; but less than two-thirds cannot instruct two-thirds of the Legislature. We have heard a great deal here about the necessity of restraining the will of the people during very exciting times. Who is to restrain the people? Angels from Heaven, coming down here free from all political excitement, or that body in which there is, of all others, the greatest political buckstering? Does the gentleman from San Luis Obispo, (Mr. Tefft,) suppose that a man who comes from

ease to you, for the sake of convenience. I will suppose that the inhabitants of the State consist of no more than one hundred thousand. You have a Constitution that was made by thirty thousand, and seventy thousand desire to repeal it—to unmake it and make another Constitution, because of the new lights they have received. Do you tell me that thirty thousand can do it and seventy thousand cannot? Is the voice of thirty thousand to be omnipotent? When government is to be started it is to be done by thirty thousand, in opposition to the will of seventy thousand! and yet that is the doctrine. No man will go further than I will, in adopting a Constitution, in narrowing the bounds and limits of the government. I believe the world is over-governed; and I want to see the limits of government restrained within the narrowest compass, but as to what that Constitution shall be, I look alone to the voice of the majority. And why, sir? Because I am elected either by the voice of the minority or majority. The difference between me and my friend from San Francisco is, that he looks to the minority and I to the majority. There is but one way to determine in all republican countries what shall be the fundamental law of the country, and that is by the voice of a majority of the people. You say that all men shall be entitled to equal political freedom; you have said that one hundred thousand men in California shall be entitled to vote, and yet they cannot vote upon constitutional law; they may make municipal laws, but the great principles of constitutional law, when it is once made, it is at the nod and beck of the minority; and the majority can never alter or amend it, or have their political rights, except by consent of the minority. Now, sir, who proposes such a monstrous doctrine as this?

What is there about this Constitution that does not pertain to the next one or any one. I leave it to my friend (Mr. Lippitt) to explain away the doctrine which he maintains, but which I am sure he does not mean to support; and yet I will urge upon him that it comes to this, and to nothing else; that the whole question of remodeling your Constitution is the question of making a Constitution. It is not different from the original making of a Constitution—exactly as we are doing now. I shall vote in favor of the amendment.

Mr. Norton. I am not going to back out, notwithstanding the denunciations of my friend from Monterey, (Mr. Botts.) Let us see how this will operate. A majority of the members of both Houses say that, in their opinion, there shall be certain amendments to the Constitution—that it shall be revised in a certain way. It is done by yeas and nays entered upon the journal of each House. After that, and in three months previous to the next election, these amendments are severally submitted to the people, at the very same time that the people themselves elect another Legislature. Within that whole three months they have an opportunity of examining these amendments, and ascertaining for themselves whether they desire such amendments or not. If they do, at the same time that they pass upon these amendments they elect members to the Legislature, and of necessity instruct them to vote for these amendments; and can they not, if they choose, get a majority of two-thirds in the Legislature for the purpose of proposing these amendments, and then submitting them to the people again by instructions to their representatives? Sir, in the case of a political party in power, they have the majority in the Legislature, and amendments or revision of the Constitution might be made for political purposes. That is what it is necessary to guard against; that no amendment shall be made for merely political purposes; no amendment unless the people themselves say there is an absolute necessity for it. The gentleman says there is too much law in the world. I agree with him. The great evil of the day is too much legislation and too much constitution making. For this reason, after you have once adopted a Constitution, submitted it to the people, and it is ratified by them, you should abide by that Constitution. If it is necessary to amend it you will find two-thirds of the Legislature and the people ready and willing to make these amendments, but do not give to a mere political majority the right to make them. Let it be done by a sufficient number of the

stitution for the protection of minorities and the well-being of the mass—majorities can protect themselves. All measures not expressly prohibited in the Constitution, are fair subjects of legislative action. He was opposed to the amendment on these grounds.

Mr. Botts wished to know if the gentleman from Sonoma (Mr. Semple) meant to deny the right of the people to maintain their own power? If such a doctrine was maintained on this floor, it should be recorded on the journal. But he (Mr. Botts) thought he knew that gentleman too well in private life, to suppose that upon calm consideration, he would oppose, by his vote, the principle embodied in the last amendment. The gentleman maintains that all power is in the hands of the people, and if they have not parted with it, it is there still. No, sir; all power is in the hands of the people, whether they have delegated it to others or not. The government is subservient to the Constitution, and the ministers of that government are the servants of the people. They have no power except what they derive from the people. All the power committed to their hands is delegated to them through the Constitution. If it does not come through the Constitution, it does not come all. The Constitution is the message of the people to their servants, and what they do not grant in that way, they do not grant at all.

Mr. McCarver thought it would be very easy to make a constitution here that would take away one man's property and give it to another. The bill of rights declares what powers the people have, and the Constitution of the State consists of restrictions, not of delegated powers. The difference between the Federal Constitution and that of a State, is, that the people of the States in whom all power is inherent, have delegated a certain portion of their State sovereignty to the General Government. The Constitution of the United States, therefore, consists of expressed delegated powers. The Constitution of a State is a constitution of restrictions. By accepting it, the people agree not to exercise the powers therein expressly prohibited. It is a constitution of restrictions that we should form here. It is not questioned that the people have a right to pass such laws as they please; but the powers not enumerated here, remain in the hands of the people and their agents. He (Mr. McCarver) could see no necessity for the amendment. The bill of rights, already adopted, declares that all power is inherent in the people, and this covers the whole subject.

Mr. Gwin said if he understood the gentleman from Sonoma, (Mr. Semple,) the doctrine broached by him, that the people in their legislative capacity have a right to violate the Constitution, was such as he could not sanction. He would like to see any man go back to his constituents after recording his vote in favor of such a monstrous doctrine.

Mr. Semple claimed to make a few additional remarks. Although he had as high a regard for the will of his constituents as any gentleman on this floor, he wished it distinctly understood that he contended for the doctrine that the people have a right to do anything which is not a violation of the Constitution; and so long as he could record his vote against any declaration to the contrary, he would do so. Whenever he was refused that liberty, he would resign his seat and tell the people he could serve them no longer. He held that whenever the State of California is admitted as a State, her right to legislate for herself is beyond the reach of any other power; that it is beyond the reach of Congress; that Congress is inferior to the State Legislature, because the Legislature is the direct emanation of the people; that Congress is limited in its powers, while the Legislature is no further limited than by the desire of the people. He would glory in recording his vote upon the principle that the Legislature of California, when formed, is the superior power, and not to be dictated to by any other power than that of the people who constituted it. The difference between the Constitution of the United States and that of a State is exemplified in the very article under discussion. The Federal Constitution is a limited Government, granted by certain sovereignties—that is to say by the sovereign people in their sovereign capacity. The State Legis-

lature, under the specified restrictions imposed upon it by the people themselves, is a direct emanation from the people, and is annually or biennially responsible to them at the ballot-box. Here is where the powers of the State Government are limited. This Convention is not called upon to tell the people what they shall do, but what they shall not do. By the adoption of the Constitution, formed by their delegates, imposing certain restrictions upon them, they make it their act. We are sent here to tell them that because they are a majority they are not to infringe upon great general rights and great general principles. What says your bill of rights? It says, in the first place, that the people are the sovereigns. It then goes on to specify certain inalienable rights, and to provide that those rights shall not be infringed upon. The people agree, by adopting the Constitution, that so long as they are members of the community they will not infringe on those special rights; but they reserve the control over all others not restricted by the Constitution. He (Mr. Semple) was always opposed to the exercise of any power by Congress which is not expressly delegated to it by the Constitution of the United States. No member of this body went further than he did for a strict construction of the Constitution. He went for a strict construction of all Constitutions. He was willing, in forming this Constitution, that the powers not herein expressly delegated should be withheld. But by whom? By the State, or by the people in their individual capacity. It must be by the people in some capacity—either individual or legislative. He would be proud to record his vote against any restriction upon the people of California, except where they chose to impose restrictions upon themselves. In every respect, where restrictions are not made, they possess and have a right to exercise all the power. This is the doctrine of State rights. It is the pure doctrine of the right of a sovereign State to enjoy all power which she has not, by her own action, restricted. The will of the sovereign is the law. The people of the State say they will not make certain laws. How do they say it? By this Constitution. Wherever they have not thus restricted their own power, they have a right to enact such laws as they please. He (Mr. Semple) was ever ready to maintain this doctrine on this floor or before his constituents.

Mr. Gwin remarked that all the amendment declares is, that the powers not delegated are reserved. If it went beyond that he would be unwilling to vote for it. This is merely to protect the people from the violation of their rights. The Constitution of the United States has no reference to the question under consideration. There is nothing in this clause but a great declaration—that all power not specially delegated to the legislature is reserved to the people. It has nothing to do with Congress—no reference either directly or indirectly to it. It is a declaration embraced in every Constitution in the United States, and he (Mr. Gwin) would be unwilling to vote for a Constitution that did not contain it.

Mr. Semple asked what Constitution contained it?

Mr. Gwin said that he believed that it was in all.

Mr. Halleck, in behalf of the Committee, (the chairman of which was absent,) stated that the article from the Constitution of Iowa was selected on account of its brevity. It was to be found in four other Constitutions of the States, nearly in the same words. He thought it could not be improved, and hoped that it would be adopted.

Mr. Hastings said it occurred to him that there was no necessity for further discussion on this subject, inasmuch as there appeared to be no necessity for the article at all. Why declare that all rights not herein enumerated are reserved to the people? Would it not be true without such a declaration? Does the mere assertion make it any more true? Gentlemen seem to be afraid that if they omit one right the people will loose it altogether. He would not attempt to explain his conclusions, lest they might be misunderstood; and would therefore vote for any amendment to leave the article out.

The question was then taken on Mr. Botts' amendment, and it was rejected.

ON

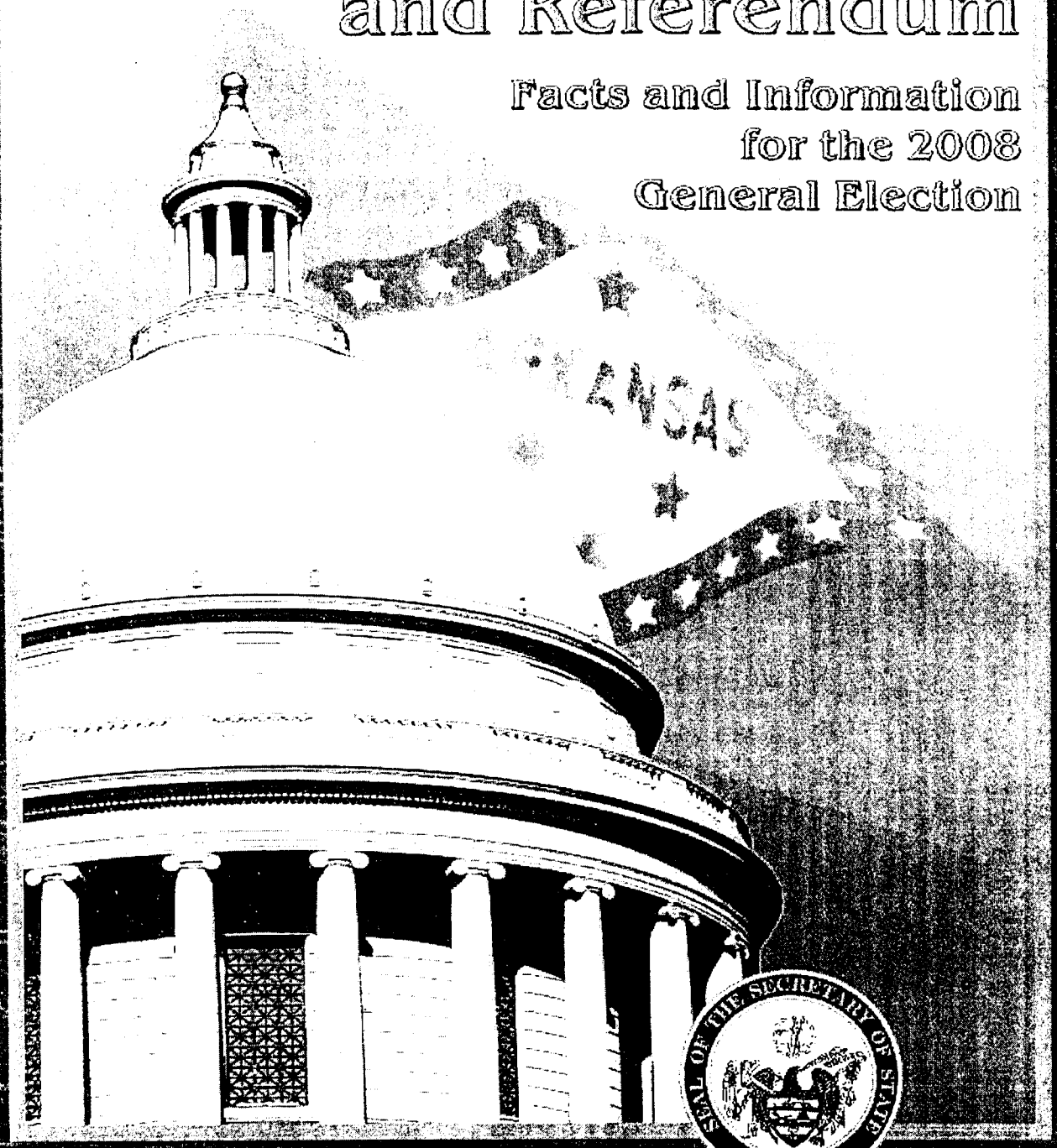
LIBERTY

Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "16"

2008 Initiative and Referendum

Facts and Information for the 2008 General Election



Charlie Daniels
Secretary of State

State Capitol, Room 256
Little Rock, Arkansas 72201

501-682-1010
www.sos.arkansas.gov

NOTICE TO THE PUBLIC is hereby given that the following popular name and ballot title for a proposed initiated act has been certified by the Arkansas Attorney General. Pursuant to Arkansas Constitution, Amendment 7, any party may contest the popular name and ballot title as an original action with the Arkansas Supreme Court after the Secretary of State has verified the petition as having the sufficient number of qualified electors' signatures to have the measure place on the ballot at the next general election.

Notice of Certification of Sufficiency
Pursuant to A.C.A. §7-9-107

On November 13, 2007, this office received Opinion No. 2007-293 from the Attorney General for the State of Arkansas whereby he approved and certified a Popular Name and Ballot Title. Pursuant to A.C.A. § 7-9-107 the Secretary of State shall also approve and certify the proposed Popular Name and Ballot Title as certified by the Attorney General.

Therefore, I, Charlie Daniels, Secretary of State, State of Arkansas, do hereby approve and certify the sufficiency of the following:

Popular Name

AN ACT PROVIDING THAT AN INDIVIDUAL WHO IS COHABITING OUTSIDE OF A VALID MARRIAGE MAY NOT ADOPT OR BE A FOSTER PARENT OF A CHILD LESS THAN EIGHTEEN YEARS OLD

Ballot Title

A PROPOSED ACT PROVIDING THAT A MINOR MAY NOT BE ADOPTED OR PLACED IN A FOSTER HOME IF THE INDIVIDUAL SEEKING TO ADOPT OR TO SERVE AS A FOSTER PARENT IS COHABITING WITH A SEXUAL PARTNER OUTSIDE OF A MARRIAGE WHICH IS VALID UNDER THE CONSTITUTION AND LAWS OF THIS STATE; STATING THAT THE FOREGOING PROHIBITION APPLIES EQUALLY TO COHABITING OPPOSITE-SEX AND SAME-SEX INDIVIDUALS; STATING THAT THE ACT WILL NOT AFFECT THE GUARDIANSHIP OF MINORS; DEFINING "MINOR" TO MEAN AN INDIVIDUAL UNDER THE AGE OF EIGHTEEN (18) YEARS; STATING THAT THE PUBLIC POLICY OF THE STATE IS TO FAVOR MARRIAGE, AS DEFINED BY THE CONSTITUTION AND LAWS OF THIS STATE, OVER UNMARRIED COHABITATION WITH REGARD TO ADOPTION AND FOSTER CARE; FINDING AND DECLARING ON BEHALF OF THE PEOPLE OF THE STATE THAT IT IS IN THE BEST INTEREST OF CHILDREN

IN NEED OF ADOPTION OR FOSTER CARE TO BE REARED IN HOMES IN WHICH ADOPTIVE OR FOSTER PARENTS ARE NOT COHABITING OUTSIDE OF MARRIAGE; PROVIDING THAT THE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES SHALL PROMULGATE REGULATIONS CONSISTENT WITH THE ACT; AND PROVIDING THAT THE ACT APPLIES PROSPECTIVELY BEGINNING ON JANUARY 1, 2009.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS:

Section 1: Adoption and foster care of minors.

(a) A minor may not be adopted or placed in a foster home if the individual seeking to adopt or to serve as a foster parent is cohabiting with a sexual partner outside of a marriage which is valid under the constitution and laws of this state.

(b) The prohibition of this section applies equally to cohabiting opposite-sex and same-sex individuals.

Section 2: Guardianship of minors.
This act will not affect the guardianship of minors.

Section 3: Definition.
As used in this act, "minor" means an individual under the age of eighteen (18) years.

Section 4: Public policy.
The public policy of the state is to favor marriage, as defined by the constitution and laws of this state, over unmarried cohabitation with regard to adoption and foster care.

Section 5: Finding and declaration.
The people of Arkansas find and declare that it is in the best interest of children in need of adoption or foster care to be reared in homes in which adoptive or foster parents are not cohabiting outside of marriage.

Section 6: Regulations:
The Director of the Department of Human Services, or the successor agency or agencies responsible for adoption and foster care, shall promulgate regulations consistent with this act.

Section 7: Prospective application and effective date.
This act applies prospectively beginning on January 1, 2009.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Office of the Secretary of Sate on this the 19th day of November, 2007.

Charlie Daniels
Secretary of State
State of Arkansas

Paid for by:

Jerry Cox
Family Council Action Committee
414 South Pulaski, Suite 2
Little Rock, AR 72201
501-375-7000

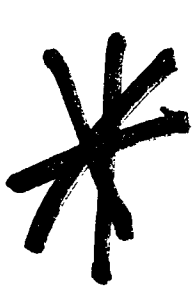
Karen L. Strauss, et al. v. Mark D. Horton, et al.
California Supreme Court Case No. S168047

EXHIBIT "17"

CALIFORNIA CONSTITUTION REVISION COMMISSION

HISTORY AND PERSPECTIVE

1996



CONSTITUTION REVISION

HISTORY AND PERSPECTIVE

The California Constitution Revision Commission

1996

The California Constitution Revision Commission is no longer in existence. Further information on the report of the commission can be found on the world wide web on the California Home Page at www.ca.gov. For future activity on the commission's recommendations, contact the Forum on Government Reform, P.O. Box 22550, Sacramento, CA 95822.

The cover includes a representation of the first California Constitution, adopted in 1849. The back of the report are the signatures of some of those who signed the Constitution at the first constitution convention.

CALIFORNIA CONSTITUTION REVISION COMMISSION

CONSTITUTION REVISION

HISTORY AND PERSPECTIVE

The purpose of this report is to provide historical perspective to the work and recommendations of the Commission. In most cases the issues studied by the Commission are identified and historical analysis is provided. The primary contributors to this work were Pat Ooley, graduate student of Public History at the University of California at Santa Barbara and Amanda Meeker, graduate student at California State University, Sacramento. As archive researchers for the Secretary of State's California State Archives, they made a substantial contribution to the understanding of the history of the many issues faced by the Commission. Their work was greatly appreciated. Two additional papers have been included: one deals with the fiscal system and the major changes that took place in 1933 and the other deals with the troubled history of the place of cities in California government structure.

1996

THE CALIFORNIA CONSTITUTION REVISION COMMISSION

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* The membership list includes all members who served on the Commission.

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STATE GOVERNANCE

by Pat Ooley

An Overview of the History of Constitutional Provisions Dealing with State Governance

Although California's constitution has undergone wholesale revision and amendment since its inception in 1849, the work of the original framers remains imprinted in the organic law of the state. Responding to the urgencies of their time, the elected delegates who revised the constitution in 1879 expanded the document, adding nine new articles and some 8,000 words. Between 1966 and 1974, California voters authorized significant constitutional revisions recommended by the Constitution Revision Commission and proposed by the legislature. Since the introduction of the popular initiative in 1911, California voters have approved over 425 amendments to the 1879 constitution. After significant revision and substantial amendment, and notwithstanding the inclusion of popular legislation, the fundamental organization of state government provided for in 1849—executive, legislative, and judicial division of powers—remains intact. The purpose of this essay is to trace the development of sections of the Executive, Legislative and Initiative articles of the state constitution to their historic beginnings in California, hopefully revealing in the process the intent of both framers and revisionists.[1]

The forty-eight men who met in Monterey in September of 1849 framed a constitution for California in just forty-three days. They were in a hurry. Congress, embroiled and divided over slave versus free soil, had repeatedly failed to grant California territorial status. Californians, unable to organize a constitutional government without such authorization, were living under the laws existing in California at the time of the American annexation—a frontier application of Mexican civil law. International law, and the United States Supreme Court, held that the established laws of an acquired province must remain in force until superseded by a formally enacted state government. The time-tested systems of locally governing alcaldes and out-of-court arbitration of disputes had been successfully applied in Alta California since the Spanish administration. But what had functioned as government for a sparsely populated territory of Mexico's far northern frontier amounted to anarchy for the litigious, land-hungry Americans who were continuously arriving in gold-rush California. By the summer of 1849, the situation had become critical.[2]

President of the United States Zachary Taylor suggested a solution for California: frame a constitution and petition Congress directly for immediate statehood when it next convened. That is what California did. In just nine months (June 1849 to March 1850), Californians elected delegates to a constitutional convention; framed, distributed, and ratified a constitution; and elected a first legislature, which then elected two Senators to Congress. With constitutions in hand, Senators William M. Gwin and John C. Fremont, along with two popularly elected Representatives, petitioned Congress for statehood.[3]

Although the Congressional debate over California's entrance as a free state edged the country closer to civil war and secured statehood only through sectionalist compromise (Compromise of September 9, 1850), California had at last acquired a constitutional government. As provided in Section Six of Article XIII, the constitution would become the organic law of the state when popularly ratified. By November 13, 1849, California voters had ratified the constitution and installed their first elected Governor, Lieutenant Governor,

Legislature, and members of the House of Representatives.[4]

Aware of the urgency to get the ratified document before Congress in time for its next session, but equally aware of the significance of their responsibility to their constituents and to posterity, the 1849 framers worked rapidly and diligently. Their principal reference, besides their individual political and legal expertise, was a "book of constitutions" containing the constitutions of the thirty United States and the federal constitution. Drawing primarily from the constitutions of Iowa and New York, and secondarily from the constitutions of Louisiana, Wisconsin, Michigan, Texas, and Mississippi, the delegates assembled a new treatise that reflected both contemporary political thought and the proven practices of other states with similar histories and experiences. When necessary, the delegates tailored laws to fit California's peculiar circumstances.[5]

In the thirty years that passed between 1849 and the constitutional convention of 1878–79, California and the nation had endured profound transformation. By the early 1870s, the United States had only recently emerged from the trauma of civil war and presidential assassination. Freed from wartime occupations, yet spurred on by wartime industry particularly in the north, the United States resumed its prewar expansion at an unprecedented pace. The nation had plunged headlong into the tumult that has historically marked the final three decades of nineteenth-century, maturing America: the opening and taking up of the "public domain" in the west, the exploitation of what seemed an inexhaustible supply of natural resources, construction and expansion of a mighty railroad network, the arrival of five million foreign immigrants since 1850, industrialization and urbanization, and the financial crash and depression of 1873.[6]

The civil war had provided two important catalysts for change in America—the ascendancy of the Republican party, and a proven federal supremacy over the states. Bolstered by federal laissez faire acquiescence and supported by federal grants, GOP industrialists and capitalists, such as the "Big Four" owners of the Southern Pacific Railroad in California, determined economic policy. A new corporate order had emerged for America, with significant social and political implications. Capitalist and industrialist expansion produced a large laboring class concurrently with a class of opulent wealth. The depression of 1873–78 reduced many laborers to poverty. [7]

Holding to the doctrine that governments ruled by the consent of the governed, and that people instituted governments for their own benefit, citizens looked to government for remedy. But people increasingly perceived both federal and local government as corrupt and indecisive—the pawn of corporations and private interests whose unchecked speculations had triggered the financial crash and depression. The perception was not unfounded. Popular newspapers had implicated congressional and cabinet level officials in the Union Pacific-Credit Mobilier scandal (1872), and the Whiskey Ring bribery and tax evasion case (1874). State and municipal governments were even more seriously infected with the fraud and graft of party machines operating in such cities as New York (Tammany Hall), Philadelphia, Chicago, and Washington, D.C. In the west, settlers and newspapers accused federally appointed territorial governors and judges of acting in collusion with corporations and developers in the squandering of public lands. Territorial legislatures, such as Dakota's, were said to be controlled by the railroads.[8]

By the mid 1870s, reform movements were coalescing across the nation. Organized labor, agrarian associations, and women's suffrage groups were demanding, among other things, restrictions on the powers of state legislatures, and government regulation of corporations and monopolies. Reformers turned to government regulation, restriction, and limitation as means to an end. To the chagrin of more conservative elements, the instruments through which they enacted their reforms were their state constitutions. Beginning in 1872 and culminating during the Progressive era in 1913, constitutional conventions were revising and

amending the fundamental law in at least twenty-six states. California's new state constitution of 1879 was one of many.[9]

In the published debates of the 1849 constitutional convention, delegates repeatedly stated that the fundamental law of a state should be brief, with most verbiage dedicated to delineating and restricting state powers, and to the distribution of power. Laws of a statutory nature, or laws of only contemporary significance, were best consigned to the statute books. The zealous revisionists of 1879, however, established a precedent for allowing statutory material to find its way into the constitution. The reform-driven necessity to instruct and restrict the legislature, municipalities, local governments, and corporations repealed the canon of constitutional brevity. Like other revised state constitutions, California's constitution increased in length—from approximately 7,300 to about 15,000 words in 1879.[10]

In his 1930 study of the California 1878-79 Constitutional Convention, political scientist Carl Brent Swisher concluded that most of the reforms so earnestly expounded by the 1879 revisionists went largely "unrealized" after the adoption of the new constitution. At the 1879 fall elections, liberal and Workingmen reformers divided among themselves allowing a conservative Republican sweep of the legislature and executive branch. The 1880 legislature " 'of indefinite postponements' " effectively "sabotaged legislation proposed for the purpose of carrying into effect provisions of the constitution which were inimical to conservative interests." The prized Railroad Commission "proved as clay in the hands of the great corporations." Astute attorneys delayed enactment for many years of the provisions for taxing railroads by challenging them as unconstitutional in the courts. Corporations, including the Wells Fargo Express Company, brought suit challenging the Board of Equalization's power to equalize assessments and won. The provision which made lobbying a felony "was little more than a laughing stock." [11]

Proponents of reform had championed a new constitution for California, but after 1879, "the conservative interests by one means or another continued to play a dominant part in California law and politics." Even so, observed Swisher, "agitation did not cease . . . for the interests of great numbers of the people were too vitally affected for that." [12]

For the nation, industrialization, capitalist expansion, and corporate growth persisted. Immigrants continued to arrive, expanding the labor force and intensifying urbanization. In 1893, a depression more devastating than 1873 settled on the country. Unemployed workers who marched to Washington for sympathy and redress met with government indifference and city police. By 1900, however, capital growth and investment had pulled the nation from depression. Corporate mergers created huge business entities, headed by men of fabulous wealth and power.[13]

Contrasted with the opulence, however, were the urban ghettos of the working poor, the drudgery and danger of factory work, and child labor. Over time the reform impulse of the 1870s spread from labor and agrarians to urban intellectuals and activists, social workers, and a growing American middle-class. The new "Progressive" proponents of reform found expression in art, literature, muckrake journalism, and public forums. Beginning at municipal and state levels, the broad reforms of the Progressive movement gathered momentum as state after state enacted Progressive legislation. As governor of New York, Republican Theodore Roosevelt had successfully sponsored Progressive reforms. As President (1901 to 1909), Roosevelt helped bring Progressivism to the national level.[14]

South Dakota was the first state to adopt the initiative and referendum in 1898. By 1910, Utah, Oregon, Montana, Oklahoma, Missouri, Michigan, Arkansas, and Colorado had duplicated South Dakota's reform enactment. By 1910, the Progressive movement had gained enough authority in California to elect a "reform governor," Republican Hiram Johnson, and a Progressive legislature. On February 9, 1911,

Senate Constitutional Amendment 22, providing for the initiative and referendum, passed the Senate by a vote of thirty-five to one. The Assembly approved SCA 22 by a vote of seventy-two to zero one week later. At a special election held on October 10, 1911, California voters ratified the amendment to Section One of Article IV of the constitution by a vote of 168,744 to 52,093.[15]

Although it was not the intent of the Progressives, their "direct legislation" reforms exacerbated the constitutional brevity problem in California. The initiative process made the constitution much easier to amend. As a consequence, each election year's ballot added more statutory law to the constitution (excepting 1915, 1935, and 1939 when amendments were proposed but none ratified). Issues passionately supported by one generation became irrelevant to the next. Once etched into the organic law, however, enactments are not easily removed. By 1948, California's constitution had increased to 95,000 words.[16]

Concurrent with the unbridled growth of the constitution came ballot measures asking Californians if a convention to revise the constitution should be called. In 1898, 1914, 1920, and 1930 voters rejected the propositions. In December, 1930, the California Constitutional Commission established by Governor C. C. Young, reported that "constant amendment" of the organic law had:

> produced an instrument bad in form, inconstant in particulars, loaded with unnecessary detail, encumbered with provisions of no permanent value, and replete with matter which might more properly be contained in the statute law of the state.

The Commission unanimously voted for revision.[17]

In 1934, Californians approved the call for a constitutional convention by a vote of 705,915 to 668,080. Interestingly, revisionists in California and in other states were asking for reforms similar to those of the present commission. According to a 1934 Bureau of Public Administration fact-finding report for the California legislature, proposals included: more signatures required for initiative constitutional amendment than for initiative statute; adoption of a single-house legislature, new legislative sessions, and a closer relationship between the governor and the legislature (as promoted by the National Municipal League); elimination of any references to executive officers, except elected officials; "changes in the machinery" of county consolidation; an elective State Board of Education; and "alterations" in constitutional mandates regarding state allotments to schools. The legislature, failing to comply with the initiative directive, never provided for the convention.[18]

By the mid 1940s, many Californians, including citizen's groups and members of the legislative, judicial, and executive branches of government, were again critically assessing the condition of the state's fundamental law document. In 1947, the legislature established an Interim Commission for the Revision of the California Constitution, composed of ten State Senators and ten members of the Assembly. Governor Earl Warren appointed a 300-member Citizen's Advisory Committee, which he instructed to investigate and address constitutional revision in statewide public hearings, and then report to the Interim Commission.[19]

Alonzo L. Baker, political scientist and legal scholar who served on the Citizen's Advisory Committee, recalled that when the committee reported to the legislature in 1948, many members recommended "thorough and far-reaching revision." But, he added, "the twenty members from the Legislature who held the residual power would brook no such thing." Regarding the Legislative Interim Commission, Baker concluded:

> The only accomplishment of note done by this Interim Commission was to recommend taking out the 14,500 words providing for the San Francisco Panama-Pacific Exposition of 1915. Inasmuch as we were acting one-third of a century after that Exposition closed it was thought it would do no violence to

> the Constitution to eliminate the section! To be sure, such a portion of the Constitution was non-constitutional to begin with: it was a travesty on constitution-making to put it there in the first place. But such is life in California when it comes to its basic State document.[20]

The reform movement did not go away, and, by the 1960s, various states were revising their constitutions. California, however, had first to hurdle the obstacle of legislative resistance to a constitutional convention. Both the 1849 and 1879 framers had provided for major constitutional revision only by calling a constitutional convention (1849 Article X, Section Two, amended in 1853, and 1879 Article XVIII, Section Two). The California Legislature obviated the necessity of a convention by securing voter approval to amend Article XVIII, Amending and Revising the Constitution. The amendment authorized the legislature to act as a constitutional convention, allowing it to submit its own revisions to the electors for ratification. In November of 1962, California voters approved Proposition 7 (Assembly Constitutional Amendment No. 14, Statutes, 1961, Resolution Chapter 222) by a vote of 2,901,537 to 1,428,034.[21]

Why had the legislature repeatedly resisted a constitutional convention? Baker contended that "the issue of apportionment of seats in the State and Federal Legislatures" was "the greatest single barrier to the much-needed revision of State Constitutions." Indeed, the 1934 Bureau of Public Administration report listed the "problem of apportioning the legislature" as an issue for constitutional revision.[22]

In almost every state, legislatures reapportioned their own districts. Following the federal two-house model, many legislatures based representation in their lower houses on population, and in their upper houses on geography or counties. In addition, many states had not accounted for the great shift of populations from rural to urban areas in their apportionments, and had not reapportioned since the turn of the century. As a result city dwellers had become severely underrepresented at the state and federal levels. Why would a state legislature resist reapportionment? As Baker succinctly described it in 1964:

> politicians and office holders in many State Legislatures and in the Congress . . . have been elected to office from grossly malapportioned districts. Many of whom know their jobs are at stake, for in Congressional redistricting and in reapportionment of seats in the State Houses many incumbents will be on the outside looking in; their base of political operations "back home" will be considerably altered; perhaps swept away altogether.[23]

As citizens or local government officials who petitioned for equal apportionment were repeatedly rebuffed by their state legislatures, they appealed to the courts. Several landmark Supreme Court decisions, culminating with Reynolds v. Sims (377 U.S. 533) in 1964, mandated a "both houses" rule for all state legislatures. Under the "equal protection" clause of the Fourteenth Amendment, both houses of a state legislature had to be based on population. By 1964, the Supreme Court had ordered "both house" reapportionment in the states of Tennessee, Georgia, Alabama, New York, Maryland, Delaware, and Virginia. Although previous decisions handed down by the "liberal" Warren Court had disgruntled some Americans (school prayer, obscenity cases, school desegregation), a popular majority concurred with the "one person, one vote" doctrine.[24]

California's 1849 and 1879 constitutions had each provided for popular representation in both houses of the legislature. The legislature was to determine districts, and to reapportion after every federal decennial census. The 1879 constitution allowed one county to contain more than one district if the size of the population dictated (and the legislature would have to determine that fact), but no county could unite with another county to form one district. As we

have seen, by 1879 the process of urbanization in California had begun, but it had not achieved the massive proportions yet to come.[25]

By 1960, while California's far northern counties of Alpine, Inyo, and Mono contained a combined population of 14,240, Los Angeles County had achieved urban sprawl with a population of 6,011,140 people. Even so, the state constitution still provided that no county could have more than one senator, and no senator could represent more than three counties. Calling California's Senate "the most grotesquely malapportioned in all the United States," Baker predicted in 1964 that the Supreme Court would "not long endure the present rank discrimination against California voters wherein one vote in the 28th Senatorial District (Alpine, Inyo, and Mono Counties) is worth 400 times as much as a vote in the 38th District (Los Angeles County)." [26]

Following the Supreme Court rulings and based on a federal district court ruling that California's Senate was unconstitutionally apportioned (Silver v. Jordan, 241, F. Supp. 576, S.D. Cal. 1964), the California Supreme Court ruled that both the Assembly and Senate had to reapportion by population (Silver v. Brown, 63 Cal. 2nd 270). In October of 1965, the California Legislature passed Assembly Bill No. 1 which fashioned new Assembly and Senate districts. The California Supreme Court later ruled that California's congressional districts, as drawn in 1961, were also unconstitutional and ordered reapportionment (Silver v. Reagan, 67 Cal. 2nd 452). Following the guidelines proposed by the United States Supreme Court, the California Legislature reapportioned its congressional districts in 1967.[27]

By the 1966 elections, California had complied with the court ordered redistricting of Assembly and Senate districts. As Larry N. Gerston and Terry Christensen have observed, the new reapportionment "shifted half of the senate's seats from rural northern areas to southern and urban locations." California's 1966 legislature, with "twenty-two new senators and thirty-three first-term Assembly members," was "younger, better educated . . . more ideological," and not quite as white.[28]

The California Legislature created the Constitution Revision Commission with Assembly Concurrent Resolutions No. 77 and No. 7 in 1963 (Statutes, 1963, Resolution Chapter 181, and First Extraordinary Session, Resolution Chapter 7). The Assembly established the commission, administered by the Joint Committee on Legislative Organization, in order to implement the provisions of Proposition 7 (November, 1962). The resolutions provided for a commission consisting of the Joint Committee on Legislative Organization, who would appoint not more than fifty citizen-members, three Senators, appointed by the Senate Rules Committee, and three Assembly Members, appointed by the Speaker.[29]

To facilitate its labor the Commission subdivided into article-committees which examined and revised the constitution article-by-article. Each committee reported its findings to the Commission which, acting as a Committee of the Whole, considered and finally adopted individual committee reports. The Constitution Revision Commission, which sat from 1964 to 1974, submitted two major reports of recommended revisions to the Legislature in 1966 and 1968.[30]

Beginning with Proposition 1A in November of 1966, over the next nine year, the Legislature submitted fourteen constitutional amendments to the voters for their approval. Each ballot measure, encompassing the legislature-approved recommendations of the Constitution Revision Commission, proposed amendments to individual articles or groups of articles of the constitution. All but four of the propositions passed at the polls. Its work completed, the legislature dissolved the Constitution Revision Commission in 1974 (Joint Rules Committee Resolution 57, March 4, 1974).[31]

California and its constitution have weathered many changes in 146 years. Throughout, reformers and revisionists have seen fit to retain the basic organization of state government

provided for in the 1849 organic law. Reform and revision have, however, established two precedents for California that contradict the constitutional tenets of the original framers.

Triggered by the 1879 revision and heightened by the 1911 "direct legislation" reforms, statutory law disorders the document. In 1964, Alonzo Baker reported in 1964 that seventy-five per cent of the California Constitution contained extraneous, non-constitutional material. The 1966-1974 Constitution Revision Commission amendments tidied the clutter, but between 1974 and 1993 voters approved ninety-seven of 151 proposed constitutional amendments. A voter trend since 1990 has been to reject most propositions at the polls, but motivation seems to stem from the question "How much will this cost?" rather than "Does this really belong in the constitution?" [32]

The second contradictory precedent was born of the need to correct the first—wholesale revision without convening a constitutional convention. Article X, Section Two of the 1849 Constitution, and Article XVIII, Section Two of the 1879 Constitution provided for constitutional revision only by means of a constitutional convention. With voter approval in 1962, the California Legislature amended the constitution to allow for legislature-constructed, partial revision. Like its 1963 predecessor, the California Constitution Revision Commission (established Statutes 1993, Chapter 1243, SB 16) is instructed to discover the defects of and recommend the needed reforms to certain provisions of the fundamental law of the state.

The Executive Branch

Governor's Powers and the Lieutenant Governor

The original framers made provision for a popularly elected Lieutenant Governor in Article V (Executive Department) of the 1849 Constitution. Section sixteen provided for the election, length of term, and qualifications for the office (the same as the Governor), as well as for succession to the office of Governor in case of any disability of the Lieutenant Governor (President pro tempore of the Senate). Section seventeen stipulated the causes for the transfer of the powers and duties of the executive to the Lieutenant Governor such as resignation or death, and including absence from the state.

The twenty-member Committee on the Constitution appears to have used the 1846 constitution of New York as a model for the two sections because they are almost verbatim reproductions of sections six and seven of Article IV of that document. The California delegation adopted sections sixteen and seventeen of Article IV as reported by the committee, without debate, during both Committee of the Whole and second reading consideration of the executive article. At the final reading of Article V, "one or two verbal errors corrected, and the article then passed" for enrollment in the constitution.[33]

At the 1878–79 revision, sections sixteen and seventeen, which had not been amended since their construction, became sections fifteen and sixteen of Article IV (Executive Department) of the 1879 document. In its report of the executive article, the Committee on the Executive Department had revised only the first of the two sections by adding a final clause stipulating that the Lieutenant Governor could not hold another office during his term. The second section, providing for the transfer of power and duties, remained unchanged from 1849.

During Committee of the Whole consideration of the executive article, delegate James O'Sullivan attempted to strike out the new clause that had been added to section fifteen by the Committee on the Executive Department, but the house rejected his proposal. The convention adopted both sections fifteen and sixteen without further debate in Committee of the Whole, or during the first and second convention readings of the executive article.[34]

The 1879 framers had preserved the 1849 provisions for a popularly elected Lieutenant Governor who assumed the powers and duties of the executive when the Governor was out of the state. In 1879 at least twenty-two other state constitutions provided for a popularly elected Lieutenant Governor, and the same number of state constitutions stipulated the transfer of power when the Governor was out of the state.

At the November 8, 1898, election voters approved Proposition Five (ACA 36), which amended sections fifteen and sixteen of Article V of the constitution. That portion of section fifteen, which provided for succession to the executive office (Lieutenant Governor, President pro tempore of the Senate), became part of section sixteen and was extended to include a third level of succession, Speaker of the Assembly. The 1879 revision of section fifteen, which prohibited the Lieutenant Governor from holding another office during his term, was deleted. Section sixteen retained the provision for the transfer of powers and duties to the Lieutenant Governor when the Governor left the state. Voters again amended section sixteen in 1946 (Prop. 14, ACA 4), 1948 (Prop. 9, ACA 14), and 1958 (Prop. 7, ACA 5). Each amendment affected provisions of the section regarding succession to the office of governor.

The Constitution Revision Commission reported their recommendations for the executive Article V to the legislature in 1966. As proposed by the Article V Committee, the Commission deleted some "unnecessary" words and shortened section fifteen (new section eight) to two sentences: "The Lieutenant Governor shall have the same qualifications as the Governor. He is President of the Senate but has only a casting vote." Provision for the election of the Lieutenant Governor would be incorporated with section sixteen materials in new section nine.[35]

The section sixteen order of succession to the executive office had, by 1966, been amended to (1)Lieutenant Governor, (2) President pro tempore of the Senate, (3) Speaker of the Assembly, (4) Secretary of State, and (5) Attorney General. In the new section nine, the Commission deleted the line of succession, allowing the legislature to determine "an order of precedence after the Lieutenant Governor." The Commission retained, without comment, the provision that the Lieutenant Governor "shall act as Governor" during the "absence from the state" of the Governor.[36]

Although they retained the instruction that "The Lieutenant Governor shall become Governor when a vacancy occurs in the office of Governor," the Commission noted that the constitution contained no provision for determining disability of the Governor, or the existence of a vacancy. "Concluding that decisions on these matters should be, as far as possible, free from political pressures," the final clause of section nine stated: "The Supreme Court has exclusive jurisdiction to determine all questions arising under this section." [37]

The legislature presented to the voters in Proposition 1A (ACA 13), the exact recommendations of the Constitution Revision Commission, except that they numbered the new sections nine and ten and added a final clause to section ten. After allowing for the Supreme Court's exclusive jurisdiction to determine all questions, the new section concluded: "Standing to raise questions of vacancy or temporary disability is vested exclusively in a body provided by statute." On November 8, 1966, Californians ratified Proposition 1A by a vote of 4,156,416 to 1,499,675.[38]

On November 5, 1974, voters ratified Proposition 11 (ACA 99) which amended sections nine and ten of Article V. The amendments deleted the gender specific pronouns "he" and "his," substituting the gender neutral "The Lieutenant Governor," and the possessive "Governor's" in their place. Sections nine and ten of Article V, Executive, have not been amended since 1974.[39]

Research indicates that the issues before the present Constitution Revision Commission relating to the Lieutenant Governor—Governor's powers and duties passing to the Lieutenant Governor when the Governor leaves the state, and the separate elections of the Governor and Lieutenant Governor—have not been historically debated. The provisions in question, which date back to the 1849 Constitution, have not, until recently, been "issues." Since the first statewide elections in 1849, California voters have elected Governors and Lieutenant Governors of different political parties concurrently only seven times. More importantly, five of those occasions include the last five gubernatorial elections since 1978.[40]

1886	Governor Washington Bartlett	Democrat
	Lieutenant Governor Robert W. Waterman	Republican
1894	Governor James H. Budd	Democrat
	Lieutenant Governor Spenser G. Millard	Republican
1978	Governor Edmund G. Brown, Jr.	Democrat
	Lieutenant Governor Mike Curb	Republican
1982	Governor George Deukmejian	Republican
	Lieutenant Governor Leo T. McCarthy	Democrat
1986	Governor George Deukmejian	Republican
	Lieutenant Governor Leo T. McCarthy	Democrat
1990	Governor Pete Wilson	Republican
	Lieutenant Governor Leo T. McCarthy	Democrat
1994	Governor Pete Wilson	Republican
	Lieutenant Governor Gray Davis	Democrat

Perhaps, as Gerston and Christensen have suggested, the opposing-party phenomena can be assigned to the relative weakness of the Democratic and Republican parties in California. Perhaps, as Gerston and Christensen have suggested, the California electorate perceives and uses the separate-ballot election of Governor and Lieutenant Governor as a check on the power of the Governor. Whatever the cause or combination of causes, the trend is an historically recent one.[41]

The Superintendent of Public Instruction and the State Board of Education.

The original framers provided for a popularly elected Superintendent of Public Instruction in section one of Article IX, Education, of the 1849 Constitution. Section one instructed the legislature to prescribe the election, duties, and compensation of a Superintendent of Public Instruction, who would serve a three-year term. In 1851, the legislature established the office of the Superintendent, and delineated the powers and duties of the elected position (Statutes 1851, Chapter 126, p. 491). In 1852, the legislature established a State Board of Education consisting of the Governor, Superintendent of Public Instruction, and Surveyor General (Statutes, 1852, Chapter 53, p. 117).

Section one of Article V, as reported by the Committee on the Constitution at the 1849 constitutional convention, was copied from the 1844 Constitution of Iowa, Article X, Section One. During Committee of the Whole consideration of the Education Article, John McDougal, delegate and future Governor of California, proposed to amend section one "that it be left to the Legislature to elect these superintendents." Delegate Morton McCarver responded that he "was decidedly in favor of placing every thing in the hands of the people, and particularly the subject of School Commissioners." McDougal withdrew his amendment and the house adopted the section as reported. During the convention second and third readings of the education article the house adopted section one, as originally reported, without debate.[42]

In 1862, California voters ratified a legislative amendment to section one of Article IX. The amendment increased the Superintendent's term of office to four years, and provided that the Superintendent be elected at the special elections for judicial officers (Statutes, 1862, Chapter 317, pp. 434-35, 579, 586).

The 1879 framers maintained the provision for an elected Superintendent of Public Instruction in Article IX, Section Two of the new constitution. The new section changed the time of election to coincide with gubernatorial elections, and specified compensation to be the same as for the Secretary of State. Although the State Board of Education had been in existence since 1852, the 1879 framers did not specifically cite it in the final draft of the article. Sections three and seven of Article IX provided for the election of county superintendents and local boards of education.

During Committee of the Whole consideration of section two as reported by the Committee on Education, lengthy debate ensued regarding the necessity of having a Superintendent of Public Instruction, and also over the salary he should be paid. Delegates such as William F. White, who favored abolishing the office of Superintendent, argued "in the interest of economy." Thomas H. Laine, who called superintendents "mere parasites," wanted to reduce the salary below that of the Secretary of State. The office had cost the state $16,000. over the last two years. Volney Howard agreed that the education system in California had been "costing too much." John R. W. Hitchcock called the office "superfluous" and a "waste of money." Albert P. Overton complained that the school system had cost the taxpayers three million dollars and was "the ruination of the State." [43]

Delegate Joseph W. Winans, who chaired the Committee on Education, cited seventeen other state constitutions that specifically provided for a popularly elected Superintendent of Public

Education. Defending the section he argued that California's school system, with about 150,000 youths enrolled, needed "a single executive head." Alexander Campbell warned: "It will not do to fritter away the powers of this officer, and distribute them here and there at random." It was "a false economy." Wilbur F. Heustis, Charles W. Cross, Jacob R. Freud, Marion Biggs, Eli T. Blackmer, and John T. Wickes defended the office of Superintendent as a necessary, laborious position of dignity, meriting a salary equal to the Secretary of State.[44]

James S. Reynolds, a member of the Committee on Education, questioned the priorities of the delegation:

> Your committee [of the whole] has voted to prevent the counties, cities, and townships from contracting debts to build any school houses at all, but give them unlimited privileges of contracting debts for Court Houses and jails. . . . You have voted to increase the expense of the judiciary from one to two hundred thousand dollars per annum, and you are opposed to increasing the expenses of education. I will admit, sir, that this is consistent, for if you are not going to have any education you will need more judiciary; you will need more Court Houses, and you will need more jails. Why, sir, we had better go to work and see how may more penitentiaries the State can afford to build. You will want some more penitentiaries.[45]

The Committee of the Whole finally rejected Laine's proposal to cut the salary of the Superintendent below that of the Secretary of State, and Hitchcock's motion to strike the section completely. Section two, as reported by the Committee on Education, was adopted by the convention. The house adopted the section without amendment or further debate during the convention first and second readings.

Section seven of Article IX as originally reported by the Committee on Education provided for the popular election of a State Board of Education consisting of two members elected from each Congressional district. The Superintendent of Public Instruction would be ex officio President. Section eight delineated the duties of the State Board of Education, including adopting a series of textbooks, testing of teachers, and granting of certificates. In Committee of the Whole the convention deleted section seven entirely, without debate. They amended section eight (which then moved into position as section seven) by eliminating reference to the State Board of Education and substituting local Boards of Education, Boards of Supervisors, and County Superintendents. The "school book question," which had vexed the legislature for some time (publishing lobbies), was better left to local school boards and county supervisors.[46]

During the convention first reading, Blackmer attempted to amend section seven again by subjecting local decisions to the approval of the legislature. Arguing unsuccessfully that the section provided no uniformity or statewide standards for textbooks or teachers qualifications, Blackmer summarized: "This Convention has decided to do away with the State Board of Education. I voted against striking that out . . . because, in my judgement, it is a need of our system." The house rejected Blackmer's amendment and concurred with Committee of the Whole actions.[47]

During the convention second reading, delegates again made failed attempts to allow legislative authority Thomas B. McFarland was in favor of striking out section seven "and leaving it to the Legislature to formulate a system which this Convention has failed to do." Morris M. Estee argued for a "State system" with uniform rules, laws, and regulations. "The educational interests of this State are the most important interests in the state. We ought to treat it with all the dignity that belongs to it." Future Congressman Marion Biggs accused Estee, who had argued against legislative control of the Railroad Commission, of political inconsistency. " 'Stand by your guns,' " he quoted to Estee, " 'and keep your powder dry.' "[48]

In 1884, a constitutional amendment repealed section seven of Article IX and substituted a provision similar to the original report of the 1879 Committee on Education. The State Board of Education, consisting of the Governor, Superintendent of Public Instruction, and the principals of the state normal schools, administered the publication and distribution of a uniform series of textbooks. The legislature gained authority over county Boards of Education and county Superintendents. A 1912 amendment to section seven extended legislative authority over the State Board of Education. The Legislature would provide for the election or appointment of a State Board of Education.

In 1968 the Constitution Revision Commission reported their proposed revisions for Article IX to the Legislature. They noted that the Superintendent of Public Instruction "is elected statewide under existing provisions." The Commission proposed that "the Legislature may change the method of selection by two-thirds vote of the members of each house." Regarding the State Board of Education, the Commission reported: "The Legislature's power to determine the method of selection under existing provisions is preserved under the proposal. Statutes presently provide for the appointment by the Governor with Senate approval." At the November, 1968 elections, Proposition 1 (ACA 30), encompassing the Commission's recommendations, failed at the polls.[49]

California voters ratified Proposition 6 (ACA 60) on June 2, 1970. The amendment, which favored local choice of appropriate textbooks, reduced section seven to "The Legislature shall provide for the appointment or election of the State Board of Education and a board of Education in each county." (Proposition 8, 1976 added the present provision for joint county boards). Proposition 6 of 1970 also added the present section 7.5 which provides that the State Board of Education adopt textbooks for grades one through eight statewide, to be furnished without cost. Proposition 11 of 1974 repealed the gender specific "he" and "his" from section two, and Proposition 140 (Political Reform Initiative of 1990) limited to not more than two the terms of the Superintendent of Public Instruction.[50]

Insurance Commissioner

Neither the 1849 nor the 1879 framers provided for an Insurance Commissioner, appointed or elected, in the California Constitution. The Legislature had provided for the office of Insurance Commissioner as early as 1868, but the office did not become an elected one until 1988 when voters ratified Proposition 103. Proposition 103, an initiative statute, added Section 12900 to the Insurance Code which provided for the popular election of an Insurance Commissioner at gubernatorial elections.

The history of the office of the Insurance Commissioner is statutory rather than constitutional. Chapter 300, which established the office of Insurance Commissioner, transferred the powers and duties relating to insurance companies in California from the State Controller to the new Commissioner (Statutes, 1867-1868, Chapter 300, p. 336). Insurance companies nominated the Insurance Commissioner at statewide conventions. The Governor either approved the nomination or appointed another person to serve annually. Section 368 of the Political Code, established in 1872, provided for an Insurance Commissioner—an executive officer, appointed by the Governor, subject to the approval of the Senate. In 1915, the Legislature amended Political Code Section 368 to provide that the Insurance Commissioner serve four-year terms. Provisions for the Insurance Commissioner were transferred from the Political Code to the Insurance Code when it was established in 1935 (Statutes, 1935, Chapter 145).

According to the text of the initiative statute, the "voter revolt" that lead to the construction and passage of Proposition 103 in 1988 resulted from "enormous increases in the cost of insurance," making insurance "unaffordable and unavailable to millions of Californians." Insurance "reform" was necessary because existing laws "inadequately" protected

consumers from the "excessive, unjustified, and arbitrary rates" of insurance companies. In addition to reforms such as rate roll backs, the initiative provided for an "accountable" Insurance Commissioner who would be popularly elected. Section Four of the initiative statute that added Section 12900 to the Insurance Code, read: "12900 (a) The commissioner shall be elected by the People in the same place and manner and for the same term as the Governor." [51]

The question of whether popular election provides accountability or does not requires further inquiry, but an instructional story of Governor accountability is told in the unprocessed papers of the Insurance Commissioner at the California State Archives. The Watts Riots in Los Angeles of August 11-17, 1965 had resulted in the destruction of $140 million in property.[52] Soon after, business owners in or near the affected area began sending letters of complaint to the office of the Insurance Commissioner. Citing reasons of high-risk, insurance companies were cancelling the property insurance of the business owners. Similar riots had been set off in other cities in the country. In those tense, volatile times another riot could easily be sparked. In their letters to the Commissioner business owners explained that, without insurance, they risked financial ruin.

The letters of reply from the Commissioner's office asserted that he was unable to help the business owners because the Commissioner did not have that type of regulatory authority over private insurance companies in California. The rebuffed and desperate consumers then petitioned the office of the person who, because he had appointed the Commissioner, was ultimately accountable. Correspondence began to appear from Governor Pat Brown to the Insurance Commissioner inquiring about the situation, and offering suggestions for remedy. Administrative records of the Insurance Commissioner indicate that the office had soon established a review board and was considering the cases of the business owners with cancelled policies on an individual basis.

State Treasurer

Section Eighteen of Article V, Executive Department, of the 1849 Constitution provided for the popular election of a Secretary of State, a Comptroller, a Treasurer, an Attorney General, and Surveyor General. The New York Constitution of 1846 (Article V, Section 1), which probably served as a model for the 1849 framers, carried a similar provision for all of the above officers except the Surveyor General. During Committee of the Whole and Convention second reading consideration of the Executive article, debate focused on the necessity of a popularly elected Comptroller. The House did not question or debate the office of Treasurer.

An 1862 legislative amendment changed the word "Comptroller" to "Controller," and provided for the election of all the named officers at the same time, place, and manner as the Governor and Lieutenant Governor. Their terms of office would be the same as that of the Governor (Statutes, 1862, Chapter 317, pp. 434-35, 582). The 1879 framers retained the 1849 section as amended in 1862, making only a grammatical correction and relocating it to Section Seventeen of the Executive Article V. The House adopted the section without debate during Committee of the Whole consideration of the article, and during the Convention first and second readings.

Between 1879 and 1966, the only constitutional amendments having any effect on the ofice of the Treasurer were those ratified in 1946, 1948, and 1958 (see above item one), which provided for a line of succession to the executive in case of the incapacity of the Governor or Lieutenant Governor. By 1946, the line of succession had extended down to the State Treasurer. As we have seen, as recommended by the Constitution Revision Commission, Proposition 1A of 1966 repealed the existing line of succession and transferred the authority to determine succession to the Legislature.

Besides the addition of the Lieutenant Governor to the list of popularly elected constitutional

officers, the Constitution Revision Commission made no substantial changes to Section Seventeen (new Section Ten). Their 1966 draft report commented: "In order to obtain greater consistency in draftsmanship, the Lieutenant Governor was added to the list of officers in existing Section 17. Other changes are in phraseology only." [53]

Proposition 1A, ratified by the voters on November 8, 1966, contained the revision recommended by the Constitution Revision Commission (except that it had been renumbered Section Eleven): "The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor." Proposition 140, the Political Reform Initiative of November 6, 1990, added the final sentence to the present Section Eleven limiting each officer to two terms.[54]

Board of Equalization

The 1849 framers did not provide for a Board of Equalization, but they did mandate that taxes be equal and uniform throughout the state; that property be taxed according to its value; and that assessors be elected in the district or county in which the property is situated (Article XI, Miscellaneous Provisions, Section Thirteen). The provision, which was not part of the original draft report of the article, was first introduced by Henry W. Halleck of Monterey on behalf "of the southern members," during Committee of the Whole consideration of Article XI. The section, probably drafted by Pablo de la Guerra of Santa Barbara, was similar to a provision in the Constitution of Alabama (Browne, Debates pp. 256, 364-65, 371).

Debate over the section was lengthy, and had the effect of splitting the delegation geographically into north versus south. Because there was no "capitation tax," state tax revenue would necessarily come from property, or, more precisely, land. The larger land holders, therefore, would shoulder most of the tax burden. Shouldn't those persons who were earning money in the mines and who were the larger population be taxed, even though they did not necessarily own land?

Concentrated principally in the southern part of the state, the Californio, ranchers had only a vague understanding of the Anglo-American valuation of land for taxation. For the Californios the value of their lands had been based on the cattle the land produced, rather than its potential as sub-divided real estate. Spanish and Mexican law prohibited the subdivision and sale of a land grant. It was important for the Californios to have locally elected assessors who understood their valuation. The Mexican delegates perhaps knew that the only way they could realize the Anglo-based assessed value of their land was to sell it. After considerable debate, the House concurred with the section, as adopted in Committee of the Whole and amended during the convention second reading (As adopted, Section 13 copied in part Section 27 of Art. XI of Texas's 1845 Constitution, provision for locally elected assessors added. Brown, Debates, pp. 364-76).

To facilitate the mandate for equal and uniform taxation the Legislature established the Board of Equalization in 1870 (Statutes, 1869-1870, Chapter 489, p. 714). The Board consisted of the Controller and two Governor-appointed members, serving at his pleasure, for a term of four years. After codification in 1872, provision for the Board of Equalization, its members and their salaries, could be found in Political Code Section 3696.

In an ironic interpretation of the intent of the 1849 framers, the California Supreme Court in 1874 found that Section 3696 of the Political Code was unconstitutional (Houghton v. Austin, 47 Cal. 646). . The court removed the Board of Equalization's power to change property valuations of county assessors because Section Thirteen of Article XI of the constitution had mandated that assessors had to be elected in the district or county in which the property was located. An 1876 amendment to the Political Code provided for a State Board of Equalization which consisted of the Governor, Controller, and

Attorney General. The Legislature repealed the old provision for salaries (Statutes, 1875-1876, Chapter 577, p. 11).

By making a constitutional provision for the Board of Equalization, the 1879 framers assured its continued existence and returned the authority that the California Supreme Court had stripped from it in 1874. The new Board consisted of the Controller and one member elected from each congressional district of the state, to serve four-year terms (Article XIII, Revenue and Taxation, Sections Nine and Ten).

The 1879 debate regarding the Board of Equalization indicates that the convention did not question the necessity of the existence of the Board, or that the members should be elected. Debate focused on the number of Board members, and the power of the Board to change individual assessments. The statements of many delegates show a strong central motivation for interest in the Board of Equalization. Unlike the 1849 Californios struggling to maintain a doomed livelihood, the 1879 reformers seemed determined to revitalize and strengthen the Board in preparation for coming battle. Powerful interests, such as the Southern Pacific Railroad and Miller and Lux, had already used the courts to render the Board impotent. The Board of Equalization had become another weapon of reform.[55]

On November 4, 1884, voters ratified a constitutional amendment authorizing the Legislature to redistrict the state into four equalization districts, and to provide for the elections of Board of Equalization members from those districts rather than congressional districts. On November 8, 1910, voters ratified an amendment which deleted all but the first sentence of Section Ten of Article XIII, which maintained the 1849 provision for local assessment of property. The amendment also created a new Section Fourteen that greatly expanded the provisions taken from Section Ten regarding assessments of railroads. The new section, consisting of almost 2,000 words, delineated in great detail tax assessment for public utilities, personal property, and insurance companies in California.

Records of the Constitution Revision Commission indicate that as early as 1964, the Joint Committee on Legislative Organization, which administered the Commission, was scrutinizing the lengthy and ponderous Article XIII on Revenue and Taxation. Recommendations of the Commission made no substantive changes in the provision for an elected State Board of Equalization, however. By November 5, 1974, the Legislature had placed the work of the Revision Commission on the ballot. Proposition 8 (ACA 32) applied solely to Article XIII, deleting 8,200 words, and transferring many provisions to the statutes books. Sections Nine and Ten of the 1879 Article XIII essentially became new Sections Seventeen, Eighteen, and Nineteen of Article XIII of the present constitution. Proposition 140, "The Political Reform Act of 1980," limited to two the terms of any Board of Equalization member.

State Personnel Board

There were no provisions for a civil service system in either the 1849 or 1879 constitutions. The system, which became constitutional in 1934, had a statutory history prior to that time.

The Legislature established a civil service system for California in 1913 (Statutes, 1913, Chapter 590, p. 1035). The State Civil Service Commission, a three-member body appointed by the Governor for four-year terms, was created to administer the system. The statute provided for the salaries of the commissioners, and included a proviso that a commissioner could be removed only by an Assembly and Senate concurrent resolution adopted by a two-thirds vote of each house.

In 1921, the Legislature reorganized the State Civil Service Commission (Statutes, 1921, Chapter 601, p. 1020). One member would be designated as the executive, ex officio president, and principal administrator. The statute outlined the duties of the two remaining members who were designated as associates, and established salaries. In 1925 the Legislature again reorganized the Civil Service Commission,

reducing it to one member with a higher salary (Statutes, 1925, Chapter 236, p. 391). In 1927 the Legislature reorganized the State Civil Service Commission still another time, changing it back to its 1921 configuration of three members and authorizing travelling expenses (Statutes, 1927, Chapter 43, p. 75).

In 1929 the Legislature established a new Division of Personnel and Organization within the Department of Finance to administer the state civil service system. The statute transferred the former powers and duties of the State Civil Service Commission to the new Division of Personnel and Organization. Members of the Civil Service Commission, with the approval of the Director of Finance, would appoint the Chief of the new Division who was given the former duties of the executive of the State Civil Service Commission. The Department of Finance retained the State Civil Service Commission as a "quasi-legislative and quasi-judicial body." [56]

Proposition 7, the initiative constitutional amendment that established Article XXIV (State Civil Service) in 1934, created the State Personnel Board as its administrative head and abolished the Division of Personnel and Organization. The Board consisted of five members appointed by the Governor, with the advice and consent of the Senate, for ten-year terms. The first Board would consist of the Director of Finance, the Legislative Counsel, and the Controller, as ex officio members, plus two Governor-appointed members. Members could be removed only by a two-thirds vote of each house of the Legislature, and compensation for members would be the same as for the previous Division of Personnel and Organization. The Board was "authorized to appoint an executive officer who should be a member of the state civil service, but not a member of the board." [57]

Proponents of civil service reform Proposition 7 explained in the ballot arguments why members of the Personnel Board served ten-year terms:

> The act provides a nonpartisan Personnel Board of five members to serve ten-year terms so staggered that each new Governor will have but one appointment on a five-man board upon taking office. This four-to-one ration will be an effective means of preventing political interference with the efficient administration of State business.[58]

In their consideration of Article XXIV for revision in 1965, the Constitution Revision Commission determined to "continue to provide for the Personnel Board," serving ten-year terms.[59]

Proposition 14 of 1970 (ACA 36), revised the Civil Service Article XXIV as recommended by the Constitution Revision Commission. The sections which had originally provided for membership and compensation and duties of the Personnel Board, Sections 2(a), (b), (c), and 3(a), stayed substantially the same (except for the addition of 3(b)). Proposition 14 of 1976 (ACA 40), which repealed Article XXIV and created the present Article VIII, maintained the 1970 organization of the Personnel Board--five appointed members serving ten-year terms with a directive to enforce the civil service statutes—in Sections 2(a), (b), (c), and 3(a) and (b).

THE LEGISLATIVE BRANCH

Legislative Structure

The framers of both the 1849 and 1879 Constitutions provided for a two-house Legislature, consisting of a Senate and Assembly (Article IV, Legislative Department, Section One). Both conventions adopted the provisions without debate. The question of a unicameral legislature was not entertained. The federal government had instituted a bicameral legislature, and it was the adopted practice of the states. It is not surprising, therefore, that the convention proceedings do not contain historical debate on the subject.

As a champion of the newly constructed, and as yet unratified, Constitution of the United States, James Madison eloquently argued that bicameralism would help bring "order and stability" to the new government (The Federalist, No. 62). He advocated a "second," "distinct" legislative branch as a check on the first branch. As unfortunately occurs in republican governments, Madison argued, elected representatives

> may forget their obligations to their constituents and prove unfaithful to their important trust. In this point of view a senate, as a second branch of the legislative assembly distinct from and dividing power with the first, must be in all cases a salutary check on the government. It doubles the security to the people by requiring the concurrence of two distinct bodies in schemes of usurpation or perfidity, where the ambition or corruption of one would otherwise be sufficient.[60]

The Articles of Confederation (1778) had provided for a single-house Congress of "annually appointed" representatives from the various states who served no more "than three years in any term of six years." Madison's treatise, as much an indictment of the Articles as a defense of the new Constitution, offered the upper house of senators serving six-year terms as a check on the "important errors" of short-term, unmotivated legislatures.

> [N]o small share of the present embarrassments of America is to be charged on the blunders of our governments. . . . What indeed are all the repealing, explaining, and amending laws, which fill and disgrace our voluminous codes, but so many monuments of deficient wisdom; so many impeachments exhibited by each succeeding against each preceding session.[61]

Every state election changed one-half of the congressional representatives. The "rapid succession of new members," no matter how qualified they were, led to capricious "public councils." A Senate would provide "some stable institution in the government." Inconstant nations, like inconstant people, fall victim to their own "unsteadiness and folly." America, Madison lamented, "is held in no respect by her friends . . . is the derision of her enemies; and . . . is a prey to every nation which has an interest in speculating on her fluctuating councils and embarrassed affairs." [62]

"Mutable policy" had proven even more disastrous internally. The "sagacious, the enterprising, and the moneyed few" gained unfair advantage "over the industrious and uniformed" masses by following and investing in fluctuating commerce and revenue laws. Inconstancy and instability "poisons the blessings of liberty itself."

> It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent

> that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed? [63]

"No government," Madison concluded, "any more than an individual, will long be respected without being truly respectable; nor be truly respectable without possessing a certain portion of order and stability." The document that Alexander Hamilton, James Madison, and John Jay had so diligently defended proved successful. An indisputable masterpiece of organic law, the Constitution of the United States commanded the respect of many nations. It's provisions for such institutions as bicameralism helped bring order and stability to America.[64]

Warning the delegation against "legislative enactments" in the organic law, and reminding them that the people had charged them with preparing "a system by which they can enact laws for themselves," delegate Charles T. Botts said at the 1849 convention: "No civilized people pretend to pass laws without at least making them run the gauntlet of two Houses, differently constituted." By 1849, when the framers of California's first constitution set about their work, Madison's doctrine of bicameralism had become as inviolable as the federal constitution itself.[65]

As we have seen, after the turn of the century, the issue of reapportionment had prevented constitutional revision by convention in California. The reapportionment problem also opened the discussion for unicameral legislatures. According to David W. Brady and Brian J. Gaines 'there have been a dozen serious efforts to bring unicameralism to California." Differing "in myriad respects," each successive proposal has "had less to do with unicameralism than some other proposed change." As early as 1913, regional tensions brought on by the reapportionment issue had "manifested in various plans to re-organize the legislature." In 1913 and 1915, legislators proposed unicameral constitutional amendments in both the Senate and Assembly. , If they got as far as a vote, however, the bills failed
to get the necessary two-thirds majority (1913—SCA 73, ACA 91; 1915—SCA 16, ACA 38).[66]

The 1920 census clearly revealed the results of urbanization—the majority of Americans lived in cities. In California, seventy percent of the population lived in the San Francisco Bay area counties and in the cities of Los Angeles County and adjacent southern counties. In 1910, thirty-four percent of California's population lived in the Bay Area counties, thirty-two percent lived in the southern counties. By 1920, the shift that would define California's future urban concentration had begun. Los Angeles and the south, with a population of 1,346,600, had overtaken San Francisco and the north's population of 1,069,541 (thirty-nine percent and thirty-one percent respectively of the total state population of 3,426,861).[67]

After 1920, apportionment standoffs in the California legislature occurred at two levels: urban versus rural, and north versus south. For the next forty-four years, until the federal and state supreme courts decided the issue for the legislature, the apportionment battle and accompanying plans for legislative reorganization continued. Unicameral legislative constitutional amendments, if they did reach a vote and many did not, never won the necessary two-thirds majority (SCA 18, 1921; SCA 34, 1923; SCA 12, 1925; SCA 6, ACA 69, 1935; SCA 21, ACA 28, ACA 33, 1937; ACA 24, 1939; ACA 17, 1941).[68]

In 1934, when California voters approved a call for a constitutional convention (the one that the legislature never enacted), several states were appraising unicameralism. By 1936 unicameral bills had been considered in twelve states. The following year twenty-one states considered over forty such proposals. Nebraska had adopted a non-partisan, single-house legislature in 1934, but was the only state to ever actually enact that reform.[69]

Brady and Gaines have noted that after 1964, unicameralism continued to resurface as a popular reform into the early 1970s. Issues that had always underscored the debate became the defining issues after reapportionment settled. Before 1964,

> Proponents looked to unicameralism to improve: (1) efficiency; (2) economy, and (3) responsibility. Moreover, the claim was often made that the legacy of Hiram Johnson's Progressive governorship was an increase in "executive control and leadership" that left the two-house legislature "unwieldy and cumbersome."

Economy became a "relatively minor issue" after 1964. "The central issues, instead, were efficiency and effectiveness, particularly in executive-legislative relations." [70]

In the March 1965 staff report of the Constitution Revision Commission to the Executive Committee of that body, recommended revisions to Section One, Article IV included only simplification of language and deletion of statutory material. Bicameralism was not addressed.

> The language of existing Section 1 which vests legislative power in the Legislature and reserves initiative and referendum powers to the people has been simplified. The provision requiring every statute to have an enacting clause as specified has been deleted; it is to be placed in the Government Code because it does not involve a basic constitutional right.

Following a "more rational organization of Article IV," the Commission recommended removal of the lengthy material added to section one in 1911 (Initiative and Referendum) to the end of the article.[71]

The revision ratified by the voters in 1966 (Proposition 1A) is today's simplified Section One:

> The legislative power of this State is vested in the California Legislature which consists of the Senate and Assembly, but the people reserve to themselves the powers of initiative and referendum.

The lengthy initiative and referendum materials were removed to the end of Article IV, sections twenty-two through twenty-six.[72]

Shorten Legislative Sessions

The 1849 constitutional framers provided for annual sessions of the legislature, commencing on the first Monday of January, but did not stipulate how long each session should run (Article IV, Legislative Department, Section Two). The section as reported by the Committee on the Constitution copied Iowa's 1844 constitution in wording and structure, except that the space for "annual" or "biennial" was left blank to be determined by the convention. Iowa's constitution of 1844 provided for biennial legislative sessions (Article IV, Section Two).

During Committee of the Whole consideration of the section debate centered on the question of annual or biennial sessions. Delegates William M. Gwin, Oliver M. Wozencraft, Morton M. McCarver, Jacob R. Snyder, and Elam Brown argued for biennial sessions. Gwin and Wozencraft asserted that annual sessions would be expensive and lead to excessive legislation. Gwin noted that all the new states had biennial sessions—Texas, Louisiana, Mississippi, Arkansas, Tennessee, Illinois, Missouri, Iowa, Wisconsin, and Michigan. In Iowa a legislator got two dollars a day for a maximum of fifty days, and one dollar a day after that. The expense would be much greater in inflationary California. McCarver asked how the revenue would be raised to defray the expense of an annual legislature? A land tax would be "oppressive" to the limited land owners and a capitation tax "revolting." Brown feared speedily enacted and repealed laws. Laws need time to be tested. Additionally, no matter how wealthy California was, the worst policy a new state could adopt was "to establish an expensive system of government." [73]

Delegates Robert Semple, Myron Norton, Henry W. Halleck, Charles T. Botts, Edward Gilbert, and Winfield S. Sherwood favored annual sessions. Semple argued that biennial sessions would not allow enough time to enact an entire code of laws for California. It would be "impossible" to keep legislators at the capital for more than two or three months a year. "The rapid progress of affairs in this country, and the great value of time, would render a longer session impracticable." Norton exclaimed "We have no laws here." Regarding the expense, "What of that?" California had proportionate means. "We have great wealth here." [74]

Halleck asserted that "If there is a country in the world, at the present time, that requires the Legislature to meet at least once a year, it is California." The Legislature had to enact new laws to provide for the "peculiar circumstances" of California. In addition, there was an "immense emigration directing its course into California." If necessary limit the length of each session "to a certain number of days or months," but keep the sessions annual.[75]

Botts feared that biennial sessions would leave too much power to the Governor in the interim. The people of California "will not be content that any one man power should govern them in retracting or improving the laws which they may make." Regarding the expense, everything was expensive in California. The people were, however, "the most wealthy in the world." Gilbert reminded Gwin that all of the biennial states that he named had seven to thirty years experience as territories, allowing time to establish and work out their first laws. "Nothing but annual sessions would answer the demands of the community" for the repeal and replacement of the "repugnant" system now in place.[76]

The convention, in Committee of the Whole, adopted annual sessions. Gwin tried to amend the section during the convention second reading with "until otherwise provided by law." The proviso allowed the legislature or the people the opportunity to change to biennial sessions after a few years without having to amend the constitution. After the same debate as occurred in Committee of the Whole the delegation rejected Gwin's amendment by a vote of eight to twenty-five. By 1862 Section Two had been amended to change to biennial sessions commencing on the first Monday in December rather than January. The amendment (Chapter 317, Statutes, 1862) also limited legislative sessions to 120 days.[77]

The 1879 framers adopted biennial legislative meetings, but changed the commencement back to the first Monday in January. With the exception of the session following ratification of the constitution which could run 100 days, regular sessions of the legislature could not exceed sixty days without a loss in pay. The delegation added a final clause to the new Article IV, Section Two prohibiting the introduction of any bill after fifty days from the commencement of any regular session without a two-thirds vote of the members. (The first session was allowed ninety days).

During the 1878-79 debates a general mood of distrust and loss of faith with the legislature prevailed. The Workingmen delegates had run on the platform: "There shall be no special legislation by the state legislature, and no state legislature should meet oftener than once in every four years." Workingmen delegates William F. White, and Charles C. O'Donnell, and Non-Partisans George A. Johnson, and Edward Martin spoke in favor of "quadrennial" sessions. Calling the legislature a "most expensive body," White said that his constituents "have felt the greatest anxiety to have them adjourn." Legislators were becoming professional, "going into politics as a business." If the legislature met only once in four years, the "office hunters" would "be obliged to go at some honest employment." [78]

Johnson and Martin spoke in the interests of economy and popular sentiment. Although quadrennial sessions were a "novelty," Johnson believed "a better class of men" would be elected, "and the interests of the people of this State will be looked after better than they are at present." Martin said that his constituents favored the legislature meeting once in four years. "In fact," he added, "they do not care if it

never meets. They can get along without it." Noting that there wasn't a "State in the Union," or "a civilized government in creation" where the legislature met only once in four years, the convention rejected the quadrennial proposal.[79]

Section Two, as originally reported by the Committee on the Legislative Department, prohibited any regular session from exceeding sixty days, except the first session called after the adoption of the constitution which could meet for eighty days. Non-Partisans George V. Smith, Walter Van Dyke, and Jonathan V. Webster, and Workingmen delegate Henry Larkin, preferred that the constitution limit the pay of legislators rather than the length of sessions. Smith believed that limiting pay to sixty days would keep regular sessions short. More important than economy, short sessions were desirable because "the longer the Legislature that is not doing good work is in session the more chance there is for evil." Additionally, "[t]he policy has been in most of the states to reduce the time of service." [80]

Van Dyke argued that if you limit the time of the session the legislature "would be driven in the last few days to consider the most important legislation," resulting in "hasty and ill considered" laws. By limiting compensation "you accomplish the whole purpose, and then let the terms be continued until the work is completed . . . properly and in order." If the legislature was facing a "matter of great importance," Webster concluded, "they should not be cut-off from enactment of good laws by a constitutional provision." But, if you cut their pay after a specified time, the legislature was "not likely to stay longer than is absolutely necessary to enact the legislation which is before them." [81]

David S. Terry and Joseph A. Filcher, Non-Partisan members of the Committee on the Legislative Department, defended the section they had drafted. Filcher stated that the popular reforms demanded were already in the section as reported. "The evil of special legislation is aimed at. The lobby influence is aimed at." No delegate had proposed any improvement. He asked the convention to quit "trifling" with the section and "get on to other and more important business." Workingmen delegate Charles Beerstecher sarcastically proposed an amendment: "There shall be no Legislature convened from and after the adoption of this Constitution, in this State, and any person who shall be guilty of suggesting that a Legislature be held, shall be punished as a felon without the benefit of clergy." The section as amended limited the pay rather than the time of regular sessions to sixty days, and increased the (pay) limit of the first session from eighty to 100 days.[82]

During the 1878-79 debate, the belief that limiting the legislature would shift excessive power to the executive resurfaced. Echoing 1849 delegate Charles T. Botts' sentiment that an unassembled legislature leaves only the governor, Workingmen delegate Peter J. Joyce mistrusted his party's call for quadrennial sessions. Corrupt corporations advocate abolition of legislatures and "go in for putting power in the hands of the Governors." The legislature had passed corrupt bills, but, he wanted to know, "how many of these corrupt bills have ever been vetoed by the Governors of this State?" Larkin, who preferred annual over quadrennial sessions, said "[t]he policy of a republican government" was to "bring the representatives a little nearer to the people." He believed in "bringing the Government as near to the people as possible." He did not believe in "leaving it to the Governor." [83]

Filcher stated that his "most vital objection" to the proposals of the convention regarding legislative sessions was "the idea of so long absenting the people from those who have power over them." The convention could not afford to endorse such a policy.

> The idea that the administration and the Legislature could come in here simultaneously and go out together is not a good one. The administration would be absolutely left to itself during its term. Assuming that the Governor should become implicated in some nefarious practices, I ask you what power there is under such a system to

reach him? You provide that the Governor may be impeached, but as soon as the sixty days of the Legislature are over he is left to himself. One of the best features of our government is that the officers are frequently brought face to face with those whom the people elect to scrutinize their action. The oftener you can send up persons directly from the people, and in this capacity legislators come, to look into and examine the affairs of the State, and confront the officers enlisted with power by the people, the better your government.[84]

At the special election of October 10, 1911 which provided for initiative and referendum, voters ratified a constitutional amendment to Section Two which provided for bifurcated biennial legislative sessions. Each session, beginning in January as provided in 1879, commenced in odd-numbered years and continued for thirty calendar days only. After a mandatory "constitutional recess" of not less than thirty calendar days, both houses of the legislature reassembled for the second part of the session. The first part of the session was for the introduction of bills, and only urgency measures were passed. After the recess the legislature considered the bills presented in January. No new bills could be introduced without a two-thirds vote of both houses. The constitutional recess was instituted in order to provide time for the public to read and analyze measures that had been introduced during the first thirty days.[85]

Between 1947 and 1966 the legislature met in annual general and budget sessions. A November 5, 1946 constitutional amendment to Article IV, Section Two switched the legislature back to annual sessions. General sessions commenced in the odd-numbered years, and budget sessions commenced in the even-numbered years. General sessions remained bifurcated with a thirty-day bill introduction period, a thirty-day recess, followed by an unspecified period to consider the bills introduced in January. Budget sessions convened on the first Monday in March in the even-numbered years.[86]

A 1949 constitutional amendment limited the second half of the general session to 120 calendar days, exclusive of the recess. The amendment also restricted the budget session to thirty calendar days, consideration of the following fiscal year's Budget Bill and its appropriate revenue acts, approval or rejection of city and county charters and charter amendments, and acts necessary for session expenses.[87]

A November 6, 1956 constitutional amendment added subdivision (c) to Section Two or Article IV which changed the meeting date of the budget session to the first Monday in February. After the Budget Bill was introduced during a budget session, both houses could take a thirty-day recess, and then reconvene for a session not to exceed thirty days. Between 1958 and 1966, the legislature was able to pass the Budget Bill without reconvening in extraordinary sessions only once in 1960.[88]

On November 4, 1958 voters ratified Proposition 9 (ACA 36), which abolished the constitutional recess and limited general sessions to 120 calendar days, not including Saturdays and Sundays (in effect allowing 166 total days). Proposition 9 also prohibited any bill, other than the Budget Bill, to be heard by committee or acted upon until thirty calendar days after its introduction, a three-fourths vote of the house necessary to override the provision. The thirty-day, bifurcated session initiated in 1911 intended that the public have an opportunity to review bills before they were acted upon. Since that time, however, the number of bills introduced increased, leaving the state printer no time to publish them all for public use. Increasing the session to 120 days allowed the introduction of bills to be spread out, and the printer more time to publish.[89]

The March 1965 Staff Report of the Constitution Revision Commission to the Executive Committee indicates that the Committee wanted to institute two-year legislative sessions, but recommended annual sessions instead.

Although lengthy, that portion of the report is reproduced here because it illustrates intent and explains why the Committee changed its course.

> As a result of the State's growth its problems have become so numerous and substantial that they should not await the reconvening of the Legislature every two years in a session open to general legislation, or the discretion of the Governor. With each biennium the special or "extraordinary" session which has met concurrently with the budget session in the even numbered year, the list of items which the Governor authorizes the Legislature to consider has lengthened. Special sessions with purported "limited" agendas virtually have become "general" sessions, and the revision recognizes that fact.
>
> Based on the procedure in the U. S. Congress, the Alaska, Massachusetts and Michigan Legislatures, among others, there was some sentiment for annual, regular sessions of unlimited duration. Jockeying for favorable position and the ever-present log jams of legislation toward the end of each session would be avoided. However, legislator-members of the Commission favored a limitation on session length. They pointed out that based on their experience unlimited sessions would be politically unsaleable because they would require even greater compensation for legislators than the members of the public would approve and would require elimination of the long-standing California tradition of the "citizen-legislator."
>
> The Legislature would be established as a continuous body for a two-year period in the same manner as the United States Congress. This will permit legislation yet unconsidered at the end of the first annual session to carry-over until the next regular session. Similar procedure is followed in the U. S. Congress and in the Michigan Legislature, among others.
>
> Printing costs and time would be saved. . . .
>
> However, the existing provision was retained following a conference with the Governor and the members of the Executive Committee. It is anticipated that annual sessions without restriction as to subject matter of legislation will diminish the need for special extraordinary sessions except in genuine emergency situations.[90]

The final recommendation of the Staff Report parallels the provision of the constitutional amendment placed before the voters the following year:

> [The new section] replaces subdivisions (a) and (c) of existing Section 2 and provides for the convening annually of a session of the Legislature limited to 120 calendar days (exclusive of Saturdays and Sundays). At present such a session meets only once every two years in the odd-numbered year. The present distinction between regular ("general") and regular ("budget") sessions has been eliminated because the latter which occurred once a biennium in the even numbered year, has been abolished. There will be only one type of regular session; it will be annual and general legislation may be considered.[91]

Proposition 1A of November 8, 1966 (ACA 13) repealed Section Two of Article IV and substituted it with new Section Three. Although the 1965 Revision Commission might have recommended the two-year sessions that we have today, in the end, Proposition 1A did not go that far.

> Sec. 3. (a) The Legislature shall meet annually in regular session at noon on the Monday after January 1. A measure introduced at any session may not be deemed pending before the Legislature at any other session.

The provision abolished the budget session, and eliminated the 120-day time limit. Convening on

the first Monday after January 1, the sessions were of unlimited duration in which any type of bill could be introduced. After all bills had been decided on, the legislature recessed for thirty days, and then reconvened to consider vetoed bills.[92]

Proposition 4 (ACA 95) "reorganized" the Legislature into two-year sessions. Ratified by the voters on November 7, 1972, it enacted the changes originally wanted by the Constitution Revision Commission seven years earlier. Proposition 4 amended Section 3 (a) of Article IV to its present construction. In their supporting argument for the amendment, Assembly Speaker Bob Moretti, Assembly Republican Leader Bob Monagan, and Senate Republican Leader Fred Marler advised voters that the proposal would "streamline" legislative operations. "It will result in reforms in operations, greater efficiency, more responsiveness to the public and some modest recurring savings estimated at several hundred thousand dollars." [93]

Time Bills Must be in Print

The earliest constitutional reference to the printing of bills can be found in Article IV, Section Fifteen of the 1879 Constitution. Section Fifteen, as originally reported by the Committee on the Legislative Department, provided that all bills must be "read at length" on final passage, but the section did not provide for three readings or printing of bills.

During Committee of the Whole consideration of the section, Workingmen delegates John D. Condon and James S. Reynolds proposed amendments to Section Fifteen which would mandate that bills be read "on three several days in each house," and that they be printed with amendments before passage. After encountering opposition from members of the Committee who drafted the section, Reynolds defended the amendments. Every man's experience at the convention showed him the necessity of printing bills. "It is impossible for a member to understand what he is voting for, or what the provisions of a bill are, by hearing them read at the desk." The object of considering a bill "on three several days, before being put upon its final passage" was "to prevent hasty legislation." The amendments were not intended to "hamper" legislation, "but to compel it to be done decently and in order, after the legislation has been considered." Reynolds later added further support to his argument by showing that at least twenty-one states had put similar provisions in their constitutions.[94]

In defense of the amendments Charles Beerstecher noted that hasty legislation had been "the curse of this State, and the curse of several States in this Union." He could not understand the objections to the provision. "A bill is introduced and kept in the hands of the Clerk, and he reads it, and it is put upon its passage, and no one sees the bill until it is enrolled." Often, "an entirely different bill is enrolled than the one passed." The section, as amended, was "a guard put on the Legislature." The delegation adopted Section Fifteen, as amended, in Committee of the Whole and in the convention first and second readings.[95]

As we have seen, the thirty-day stipulation first appeared in Section Two of Article IV with the adoption of the Progressive amendments at the October 10, 1911 special election. The "constitutional recess" of the bifurcated legislative sessions was intended to "give the public time to read and analyze measures introduced during the first thirty days." Section Fifteen had already provided that bills be printed after introduction. People had thirty days to procure a copy of the printed bill and contact their legislator regarding its provisions.[96]

On November 4, 1958 voters ratified Proposition 9 (ACA 36) which amended Article IV, Section Two. As discussed above, this amendment abolished the split legislative session and the "constitutional recess," and extended general sessions to 120 calendar days, not including Saturdays and Sundays. Proposition 9 also mandated that no bill, other than the Budget Bill, could be heard by any committee or acted

on in either house for thirty calendar days following introduction.

Writing in favor of the proposition, Assembly members Allen Miller, and Charles Conrad, and Senator John F. McCarthy argued that, although the 1911 amendment was well intentioned it had ceased to be functional.

> [T]he tremendous increase in legislative problems resulting from the rapid growth and development of our State has caused such a flood of bills that the State Printer is unable to get them into print until the end of the recess and the public has little time to study them. Further, the split session has led to the mass introduction of bills before the recess, which results in little chance to work out details of any proposal. This means that many bills are in skeletal or "spot bill" form and convey only that the author has in mind some unidentified change in the law on a particular subject. Such bills mean little to the public, and must be later amended and reprinted—all of which is time-consuming and expensive.[97]

The amendment allowed ninety days for the introduction of bills, giving legislators time to properly prepare bills before printing. Saturdays and Sundays could be used to confer with constituents and answer public inquiries. Proponents promised voters that the Legislative Counsel would maintain a "digest" of every measure introduced. With the extended bill introduction period, the Legislative Counsel could keep the index and digest current during the whole session. "This would allow you [the voter] to examine the index and digest at any time to determine whether legislation you are interested in has been introduced." People would have thirty days after introduction to determine the effect of a bill.[98]

Although the Constitution Revision Commission initially wanted to eliminate the thirty-day waiting period in their recommendation to the legislature, they subsequently changed their opinion. The Article IV "Staff Report" of 1965 described the process which led to their final recommendation.

> [T]he 30-day waiting period for action on bills after their introduction at regular sessions of the Legislature has been retained. . . . Initial drafts of Article IV eliminated this restriction because the waiting period was regarded as ineffective against the alleged evil it sought to prevent: lack of notice of the content of pending legislation. The Legislature could waive the 30-day delay by a three-fourths vote, and it did not prevent the use of the "skeleton" bill or "author's amendments" which could alter the entire bill without subjecting it to further delay. No other state constitution contains a similar restriction on the progress of a bill.
>
> However, the provision was restored on the advice of legislator-members of the Commission. They pointed out that in 1958 the 30-day bill waiting period was substituted for the former 30-day recess which occurred after the first month of general session in odd-numbered years. That recess was used for the printing of the bills introduced in the first four weeks of the session; it also allowed various groups to review pending legislation. Eliminating the 30-day period would remove a protection that was intended to be retained when the bifurcated session itself was abolished. Additionally a proposal to shorten the 30-day period to 20 days insofar as committee action on legislation was concerned was rejected in 1962. The League of California Cities and others indicated they still needed the full 30 days to review legislation and to notify a widely scattered membership of the pendency of measures in which they are interested.[99]

As recommended by the Constitution Revision Commission, Proposition 1A (ACA 13) of November 8, 1966 repealed Section Two of Article IV and transferred that portion of

subdivision (a) (containing the thirty-day stipulation) to Section Eight, subdivision (a). The language went largely unchanged, except for modernizing phraseology. The 1879 Section Fifteen providing for three separate readings and printing of bills substantially became new Section Eight, subdivision (b). Subdivisions (a) and (b) of Section Eight have not been amended since that time.

Retirement System

The current constitutional provision which restricts legislative retirement entitlements (Article IV, Section 4.5) is less than five years old (November 6, 1990). Enactments governing legislative retirement have been largely statutory, and they have originated relatively recently (approximately 1947). Discussion concerning the issue of legislative retirement has developed only in the recent past. But, if the issue is approached from the question should legislative service be considered a career occupation?, debate can be traced to the 1849 constitution.

There are no specific references to legislative retirement in the 1849 or 1879 constitutions. The 1849 framers provided for per diem and travelling expenses of legislators and constitutional officers only temporarily, until the first legislature could establish salaries by statute (Article XIII, Schedule, Section Fifteen). When the Committee on the Constitution reported the section, they left the dollar figures blank so that the convention could determine the amounts in Committee of the Whole. Many delegates supported a fairly high figure. The duties of government officers were "onerous," and "high salaries would command the requisite talent." The cost of living in the inflationary environment of gold rush California was astronomical. The people would sanction high salaries.[100]

Delegate William M. Gwin argued that if they did not establish low salaries the expenses of government would be enormous and oppressive to the tax payers. He said, "I have never known an office of honor in the United States where the incumbent makes anything out of it, or even sustains himself upon the salary." Charles T. Botts, who inferred that Gwin was electioneering with a popular issue (low salaries), responded: "there are honorable places which are kept for the rich of the land, and . . . a poor man cannot afford to accept them." A low salary "requires a man of other means to accept an office which will not of itself sustain him." The Governor of the state "could not sustain himself on $6,000 a year," but if he was "worth millions" he could "hold the highest office of state in the gift of the people." [101]

In all new governments, Gwin retorted, expenditures usually surpass revenues. He did not wish to reserve public office to rich men, but immoderate salaries led to expensive government and "burdensome taxes on the people." The provisions were only temporary, and many "competent men" were "ready and able" to occupy the offices already. If the salaries were too low the legislature could increase them later. "I do not desire to fix the salaries below what is proper," Gwin concluded, "nor do I wish to make a political hobby in connection with this matter." [102]

For legislators, the convention settled on the same pay they had fixed for themselves—sixteen dollars per diem, and sixteen dollars for every twenty miles travelled. Compared to Iowa's two dollars per diem and two dollars per twenty miles, and New York's three dollars per diem and one dollar per ten miles, California's allowance seems extravagant. When fixing their own compensation, however, the delegates settled on a moderate sixteen dollars, the average daily earnings of a "mechanic" in the inflated California economy.[103]

In 1849 public office was not considered to be an occupation. Serving as an elected official was an honor. Political office brought status and influence to a man, but it also carried great responsibility, and frequently, a strain on personal resources. It was an honor and a duty to serve, but the service was not a primary means of support. The sentiment of the age is

probably best reflected in delegate Robert Semple's observation regarding annual legislative sessions. It would be "impossible to keep members of the Legislature more than two or three months at the seat of Government." Legislators would have their private occupations to tend to. "The rapid progress of affairs in this country, and the great value of time would render a longer session impracticable." [104]

The 1879 debate indicates that political office was still not considered to be occupational. Per diem and mileage was to be left to the legislature to decide, but was not to exceed eight dollars per day, ten cents per mile, and twenty-five dollars for contingent expenses per session (Article IV, Section Twenty-Three). Committee of the Whole debate focused on setting the salary high enough to attract the proper talent, and to support a respectable lifestyle in Sacramento, away from home, family, and business. When setting compensation limits, delegates were less concerned with per diem and mileage than with recent abuses of contingent expense funds.

The debates indicate that a propensity towards career politics had begun to develop in the nation, but the delegates who spoke of it attached dishonor to the trend. During Committee of the Whole debate on sessions of the legislature, Workingmen delegate William F. White explained why he supported quadrennial sessions:

> I find in the old State of Pennsylvania they are tired of these political bodies meeting. The young men of the country are turning into politicians as a business. If there was but one session in four years these men would die out between the four years and be obliged to go at some honest employment. All the young men are looking to politics as a means of livelihood. I would rather that one of my sons would carry a hod for a living than to take the best office in the gift of this State. Therefore, I would like to see something done to check this office hunting.[105]

Political office was an honor and a duty, a "gift" of the people or of the state. It was not an occupation.

Until the 1966 revision of Article IV, the constitution had provided that the Legislature set its own compensation by statute, but the constitution had stipulated a ceiling. Any raise beyond that ceiling required a popularly approved constitutional amendment. By 1924, Section Twenty-Three of Article IV limited legislative salaries to $100. a month (substantially lower than 1879's eight dollar per diem if they worked twenty days per month). In 1949 legislative salaries were raised to $300. a month. By 1954, subdivision (b) of Section Two, Article IV set legislative salaries at $500. a month. That figure held until the 1966 revision.[106]

Voters had approved a constitutional amendment which directed the Legislature to provide a retirement plan for state employees as early as 1930 (Article IV, Section 22a added November 4, 1930). The following year, the Legislature established by statute a State Employees Retirement System for California (Statutes, 1931, Chapter 700, p. 1442). In 1939 the Legislature extended the scope of the State Employees Retirement Law to include city, county, and school district employees who wished to participate (Statutes, 1939, Chapter 954). Developing in the statutes and outside the strictures of the constitution, by 1947 the Legislature had established a retirement system for its own members (Government Code Section 9359 et. seq.).

On November 4, 1958, voters rejected Proposition Five, a Senate Constitutional Amendment which would have allowed the Legislature to fix legislator's salaries at an amount not to exceed "the average salary of county supervisors in the five most populous counties" (approximately $10,080. in 1958). Supporting the amendment, State Senator James A. Cobey argued that public officer's salaries, subject to constant review, did not belong in the constitution. Every change required constitutional amendment. A majority of states, the United States Congress, and the Model

Constitution of the National Municipal League, provided for legislative salaries by statute rather than by constitutional provision. The Joint Legislative Committee on Legislative Procedure, California Conference on State Government, Committee on American Legislatures of the American Political Science Association, and the 1957 California Citizens Legislative Advisory Commission supported the amendment.[107]

The arguments of State Senator John A. Murdy, Jr., who wrote against Proposition Five, reflected the seriousness of the reapportionment issue in 1958. He also provided a contemporary opinion of legislative retirement benefits. Malapportioned districts caused pay inequities. A senator representing over five million people in Los Angeles County had a much larger work load than a senator representing a smaller county of 100,000 people, but both senators made the same salary. Conversely, it was more difficult for an Assembly Member to cover a sparsely populated rural district than an urban area. Additionally, the Legislature determined the salaries of supervisors, "directly or indirectly," in the five biggest counties, excepting San Francisco which was regulated by charter.[108]

Higher pay, asserted Murdy, Jr., would have a "great liberalizing impact" on the "already generous legislative retirement system."

> The present terms of the State Retirement System permits a Legislator to retire at 75% of his salary if he has had fifteen years of service and has reached sixty-three or over. This same retirement formula would apply on any increased salary, not only to Legislators retiring in the future, but would be retroactive to those who have already retired.

Extended to public officers, provisions of the State Retirement System appear to indicate countenance of legislative careers. The defeat of Proposition Five may show, however, that popular disapproval of political occupation prevailed, keeping legislative office less than lucrative. Or perhaps Senator Murdy, Jr. reflected popular sentiment when he commented "Whether it is possible to buy statesmanship by offering salary inducement is still an unsolved problem." [109]

In 1966, California voters passed Proposition 1A (ACA 13), which removed constitutional provisions for legislative compensation and made them statutory in 1966. The 1965 report of the Constitution Revision Commission, which recommended this legislative course of action, provides an important analysis of the post-reapportionment compensation/ retirement issue.

> Since 1954 as each of numerous attempts to increase salaries has failed, the California legislators have found other means of increasing both their perquisites (by way of perdiem and mileage or state-leased automobiles and a generous pension plan geared to the cost of living index) and their efficiency (by way of staff assistance and similar aids) until it is now possible for:
>
> (1) A legislator to retire after 30 years of service and receive more in retirement than the constitutionally stipulated salary he received as an incumbent; and
>
> (2) The press to estimate—in however misleading a manner—that a single legislator may have the equivalent of $25,000 in state funds for his individual use in any odd-numbered year (including salary, per diem, mileage . . . or leased automobile and credit card, district office allotment, postage, secretarial assistance, and telephone). (The implication frequently conveyed is that the legislators pocket this entire amount . . . . For the most part the latter items reimburse the legislator for his out-of-pocket expenses; the cost of living in the capital during a session is high).
>
> To the unthinking voter these figures are appalling—made no less appealing by attempts to misrepresent them. The

present impasse on legislators' compensation has been characterized as follows:

> "That the citizen of California should be so stubbornly resistive to adequate pay for a man who copes with the problems of a three billion dollar budget and the intricacies of the technical legislation essential to the largest state in the nation is equally dismaying to the legislator . . . Thus fringe benefit begets salary stalemate and voter opposition to legislative carte blanche begets fringe." [110]

The Commission then proposed an "open, rational approach to legislators compensation:"

> (1) A substantial increase in salary commensurate with the legislator's status as a member of the third and coequal branch of government with the executive and judiciary recognizing that the job of legislator is in fact virtually full-time; and
>
> (2) A program of constitutional and statutory restraints on legislative self-indulgence as to perquisites other than annual salary.
>
> Only with the adoption of a compensation program outlined above will the California legislator be able to justify to the public at election time that he is worthy of his hire and thus open a new era of mutual respect between the California citizen and his Sacramento representative that both deserves.[111]

By 1965, the commission asserted, twenty-eight states had legislative compensation rates set by statute, without constitutional limitation. The United States Congress had always enjoyed that privilege. When was California to join the fold? Echoing the sentiments and fears of the constitution's framers, the commission concluded:

> If the Legislature is to meet annually for approximately six months, it will be necessary to compensate the Members adequately to permit them to be away from their usual occupations. While the California voter has been conditioned to the concept of the "citizen-legislator" over the years, membership in the Senate and Assembly, with each biennium, is becoming more than a part-time vocation.[112]

Proposition 112 of June 5, 1990 (SCA 32) repealed the 1966 legislative compensation and retirement statute (Chapter 163) that ratification of Proposition 1A had authorized (Ch. 163, Statutes, 1966, 1st Extraordinary Session, pp. 721-29). Five months later, initiative constitutional amendment Proposition 140 (Term Limits) limited legislative salaries and operating expenses, and restricted legislative retirement benefits by constitutional provision. In 1965 the Constitution Revision Commission asserted that membership in the Legislature was becoming "more than a part-time vocation." Twenty-five years later, however, a popular initiative amended the constitution to assert that "service in the Legislature" was "not . . . intended as a career occupation." Section 4.5 of Article IV today prohibits the Legislature from accruing more pension and retirement benefits than are already provided by statute.

THE INITIATIVE PROCESS

The great legacy of the Progressive Reform Movement in California, Senate Constitutional Amendment No. 22, passed in the Senate on February 9, 1911 by a vote of thirty-five to one, Senator Leroy A. Wright of San Diego casting the only dissenting vote. On February 16, the Assembly passed the amendment with seventy-two votes in favor and no dissenting votes. Placed before the voters at a special election called by Progressive Governor Hiram Johnson on October 10, 1911, the people ratified the Initiative, Referendum, and Recall constitutional amendment by a vote of 168,744 to 52,093 (see endnote 15).

Since the addition of the Initiative and Referendum to the Constitution in 1911 (Article IV, Section One, 1 (a), (b), (c), (d)), the provision has gone through two constitutional revisions. Following the recommendations of the Constitutional Revision Commission in 1965, the legislature placed Proposition 1A (ACA 13) on the November 8, 1966 ballot. The popularly ratified amendment which revised the Legislative Article IV, repealed the 1911 Section One and subdivisions (a), (b), (c), and (d), and relocated them to the end of Article IV, commencing with Section Twenty-Two (a) and continuing through Section 26 (see endnote 72).

On June 8, 1976, voters ratified Proposition 14 (ACA 40). The amendment reorganized provisions related to voting, the initiative, referendum, and recall, which were "scattered throughout the Constitution," under a single article. As a result, current Article II—titled Voting, Initiative and Referendum, and Recall—contains the original 1911 amendment, fairly intact, except for modernized phraseology and simplified structure.[113]

Constitutional Amendments/Ballot

The language of current subdivision (c) of Section Eight, Article II has not substantially changed.

1911, Article IV, Section One (paragraph two, sentence two, sixth clause):

> the Secretary of State shall submit the said proposed law or amendment to the Constitution to the electors at the next succeeding general election occurring subsequent to 130 days after the presentation aforesaid of said petition, or at any special election called by the Governor in his discretion prior to such general election.

1966, Article IV, Section Twenty-Two, subdivision (c):

> The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

Constitution Revision Commission Draft Report, 1965 Comments:

> a new procedural section replacing various similar provisions in existing Section 1 dealing specially with each type of initiative petition. The Secretary of State must submit initiative statutes or constitutional amendments at special or general elections; the Governor may call special elections for this purpose. Existing language requires submission of pending initiative measures at any special election called for placing measures proposed by the Legislature before the electorate. Legislative Counsel indicated the provision was unnecessary because section requires that the Secretary of State present any pending measures to the electorate at the next succeeding election whether it be special or general, called by the Legislature or by the Governor. Legislative Counsel Opinion No. 6865, Aug. 27, 1964.[114]

1976, Article II, Section Eight, subdivision (c):

[unchanged from 1966]

The primary election, established in 1909, was in effect at the time that the Progressives drafted the amendment in 1911. They used only the terms "general" or "special" when referring to an election. General elections are those held in November.

Amending Statutory Initiatives

The language of current subdivision (c) of Section Ten, Article II has changed principally to modernize phraseology and simplify structure.
1911, Article IV, Section One, (paragraph six, sentence two)

> No act, law, or amendment to the Constitution, initiated or adopted by the people, shall be subject to the veto power of the Governor, and no act, law or amendment to the Constitution, adopted by the people at the polls under the initiative provisions of this section, shall be amended or repealed except by a vote of the electors, unless otherwise provided in said initiative measure; but acts and laws adopted by the people under the referendum provisions of this section may be amended by the Legislature at any subsequent session thereof.

1946, Article IV, Section One, subdivision (b)

> Laws may be enacted by the Legislature to amend of repeal any act adopted by vote of the people under the initiative; to become effective only when submitted to and approved by the electors unless the initiative act affected permits the amendment or the repeal without such approval. The Legislature shall by law prescribe the method and manner of submitting such a proposal to the electors.

1966, Article IV, Section Twenty-Four, subdivision (c)

> The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval.

Constitution Revision Commission Draft Report, 1965 Comments:

> consolidates portions of the sixth paragraph of existing Section 1 with existing Section 1b. No substantive change has been made; language has been simplified and phraseology improved. The last sentence of existing section 1b is unnecessary in view of proposed subdivision and has been deleted. Section 1b was added to the Constitution in 1946 to eliminate any question as to the power of the Legislature to propose to the people an amendment to a statute adopted under the initiative process.[115]

1976, Article II, Section Ten, subdivision (c)

> [unchanged from 1966]

Legislative Review of Initiatives

There is no applicable current constitutional reference to legislative review of initiative constitutional amendments or initiative statutes. (Legislative enactment of initiative statutes and constitutional amendments seems contradictory since initiatives are the popular equivalent of statutes and constitutional amendments which originate in the legislature). The closest reference to legislative review of popular initiatives can be found in the "indirect initiative."

The Progressives provided for two initiative processes in the 1911 constitutional amendment: the direct initiative and the indirect initiative. The direct initiative is in use today, but, for lack of use, the Constitution Revision Commission recommended that the indirect initiative be abolished in 1965. Proposition 1A (ACA 13), ratified by the voters on November 8, 1966 repealed the indirect initiative provision (Article IV, Section One, paragraph three).

Using the indirect initiative, voters could propose legislation to the legislature. Qualifying petitions had to contain signatures of registered voters equal to five percent of the votes cast for Governor at the last general election. The Secretary of State sent the petition to the legislature, which had forty days to either enact or reject the unchanged initiative, or amend it. If the Legislature approved the proposal without amendment, it became law. If the Legislature did not approve the proposal without amendment, or if the Legislature rejected it, the Secretary of State had to submit it to the voters at the next general election. The indirect initiative also provided for competing legislative enactments on the same subject.

The text of the indirect initiative as originally drafted and ratified in 1911 follows (note the provision for legislative competing enactments in the section):

> Upon the presentation to the Secretary of State, at any time not less than 10 days before the commencement of any regular session of the Legislature, of a petition certified as herein provided to have been signed by qualified electors of the State equal in number to 5 per cent of all the votes cast for all candidates for Governor at the last preceding general election, at which a Governor was elected, proposing a law set forth in full in said petition, the Secretary of State shall transmit the same to the Legislature as soon as it convenes and organizes. The law proposed by such petition shall be either enacted or rejected without change or amendment by the Legislature, within 40 days from the time it is received by the Legislature. If any law proposed by such petition shall be enacted by the Legislature it shall be subject to referendum, as hereinafter provided. If any law so petitioned for be rejected, or if no action is taken upon it by the Legislature within said 40 days, the Secretary of State shall submit it to the people for approval or rejection at the next ensuing general election.
>
> The Legislature may reject any measure so proposed by initiative petition and propose a different one on the same subject by a yea and nay vote upon separate roll call, and in such event both measures shall be submitted by the Secretary of State to the electors for approval or rejection at the next ensuing general election or at a prior special election called by the Governor, in his discretion, for such purpose. All said initiative petitions last above described shall have printed in 12-point black-face type the following: "Initiative measure to be presented to the Legislature."

In its 1965 Draft Report, the Constitution Revision Commission succinctly explained why it recommended repeal of the indirect initiative:

> Because the percentage of signatures required for proposing an initiative statute has been reduced and because there have been but four instances where an indirect initiative—that is, a petition to the Legislature, not to the people—has been utilized (and only once successfully), the Commission recommends repeal of the indirect initiative procedure.[116]

It is perhaps applicable to this inquiry to note that the Constitution Revision Commission had considered insertion of some provision for judicial review of initiatives and referendums in the constitutional amendment of 1966, but decided not to proceed. Commission comment follows:

> Inclusion of a provision for judicial review of the initiative (or referendum)

petition or ballot title and summary was considered. It is not necessary to include such a provision because an elector already has that right. Legislative Counsel Opinion No. 6863, Sept. 14, 1964. Also it is inadvisable to stipulate the standard of accuracy or impartiality for the petition or ballot title and summary. The required standard should be left to the courts in the event an elector petitions for review of either item. Additionally, any requirement that the ballot title and summary be identical with that appearing on the petition should be added to the Elections Code.[117]

ENDNOTES

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2 Regarding the application of English common law in United States territories and possessions see William Q. De Funiak and Michael J. Vaughn, Principles of Community Property, 2nd Ed. (Tucson: University of Arizona Press, 1971), p. 56; First-hand accounts of government in pre-statehood California are related in Governor-General Bennet Riley's "Proclamation Recommending the Formation of a State Constitution, or a Plan of a Territorial Government, June 3, 1849," William M. Gwin, John C. Fremont, George W. Wright, and Edward Gilbert, California Representatives to Congress, "Memorial to the Honorable the Senate and House of Representatives of the United States of America in Congress Assembled, March 12, 1850," and J. Halleck, Attorney at Law, and W. E. P. Hartnell, Government Translator, "Translation and Digest of such portions of the Mexican Laws of March 29th and May 23rd, 1837, as are supposed to be still in force and adapted to the present condition of California," in Browne, Report of the Debates, 1849, pp. 3–5, xiv–xxiii, and xxiv–xl; Regarding the civil law system in Mexican California see David J. Langum, Law and Community on the Mexican California Frontier: Anglo-American Expatriates and the Clash of Legal Traditions, 1821–1846 (Norman: University of Oklahoma Press, 1987).

3 Kenneth M. Stamp, "Expansion and Sectional Crisis," The National Experience: A History of the United States to 1877, Vol. 1, 3rd Ed. (New York: Harcourt Brace Jovanovich, Inc., 1973), pp. 276–80; Browne, Report of the Debates, 1849, Appendix, "Constitution of the State of California," Article XIII, Schedule, Sections 6, 7, 8, p. xii.

4 Ibid.

5 Browne, Report of the Debates, 1849 , "book of constitutions," pp. 36, 299; prominent delegate William M. Gwin said that he "had selected the Constitution of Iowa, because it was one of the latest and the shortest," p. 24; an explanation for the popularity of New York's 1846 constitution may be that New York was the native state of the largest number of delegates (eleven); California claimed the next highest number (seven), pp. 478–79; Regarding the influence of other state constitutions in individual articles of California's 1849 constitution see Cardinal Goodwin, The Establishment of State Government in California (New York: The MacMillan Company, 1914), pp. 238–40.

6 C. Vann Woodward, "The Urban Society," The National Experience Vol. 2, p. 444; Alan Kifer, "Depression," and John Mack Farager, "Immigration," The Encyclopedic Dictionary of American History, 4th Ed., John Mack Farager, ed. (Guilford, Connecticut: Dushkin Publishing Group, Inc., 1991), pp. 75, 136–37.

7 For a discussion of the ascendancy of the GOP, the "Republican blueprint" for a "national state," and the establishment of corporate America see David M. Emmons, "Constructed Province: History and the Making of the Last American West," Western Historical Quarterly 25-4 (Winter 1994): 437–59, esp. 443–46.

8 Willie Lee Rose, "The Aftermath of War," The National Experience Vol. 2, pp. 373–74, 376, Implicated in Credit Mobilier, which cost the federal treasury $23 million, were Vice President Schuyler Colfax and future President James A. Garfield; reporters exposed Secretary of War William W. Belknap, Secretary of the Treasury Benjamin Bristow, and three other members of President Grant's cabinet as part of the Whiskey Ring; "Boss" William Marcy Tweed of Tammany Hall, who had controlled the governor and state legislature with bribes, bilked New York City of $200 million. Regarding corruption in the territories see Patricia Nelson Limerick, The Legacy of Conquest: The Unbroken Past of the American West (New York: W. W. Norton & Company, 1987), pp. 84–85.

[9] Charles Kettleborough, ed., The State Constitutions and the Federal Constitution and Organic Laws of the Territories and Other Colonial Dependencies of the United States of America (Indianapolis: B. F. Bowen & Company, 1918), pp. 12–1554; For a contemporary discussion of late nineteenth-century state constitutional revision see Simeon E. Baldwin, Modern Political Institutions (Boston: Little, Brown, and Company, 1898), pp. 45–79.

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[11] Carl Brent Swisher, Motivation and Political Technique in the California Constitutional Convention, 1878–79 Reprint Edition (New York: Da Capo Press, 1969), pp. 112–14.

[12] Ibid., 114.

[13] C. Van Woodward, "Political Stalemate and Agrarian Revolt," The National Experience Vol. 2, pp. 481–84; John M. Blum and Arthur M. Schlesinger, Jr., "Theodore Roosevelt and the Progressive Movement," The National Experience Vol. 2, p. 511.

[14] Blum and Schlesinger, "Theodore Roosevelt and the Progressive Movement," pp. 511–24.

[15] March Fong Eu, Secretary of State, A History of the California Initiative Process (Sacramento: Secretary of State, Elections Division, November 1992), p. 2; Larry N. Gerston and Terry Christensen, California Politics and Government: A Practical Approach 3rd ed. (Belmont: Wadsworth Publishing Company, 1995), p. 12; California Legislature, Journal of the Senate, 1911, pp. 747–48; California Legislature, Journal of the Assembly, 1911, pp. 834–38.

[16] Wilson, California's Legislature, 1994, p. 13; Baker, Problems in State Constitution Revision, p. 1.

[17] Dean E. McHenry, "Legislative Problems No. 13," Bureau of Public Administration, University of California, Berkeley, Samuel C. May, Director, December 15, 1934, pp. 4, 8.

[18] Ibid., 8–10; Baker, Problems in State Constitution Revision, p. 3.

[19] Baker, Problems in State Constitution Revision, p. 3.

[20] Ibid., 4.

[21] Frank P. Grad, The Drafting of State Constitutions: Working Papers for a Manual (New York: National Municipal League, 1967), p. ii, As stated in the "forward," the National Municipal League decided to publish their working papers (co-authored by the Legislative Drafting Research Fund of Columbia University, State Constitutional Studies Program in 1963) in their original form because of "the current interest in the subject." The 1967 publication was particularly timely "because of the number of state constitutional conventions under way or about to get under way."

[22] Baker, Problems in State Constitution Revision, p. 5; McHenry, "Legislative Problems No. 13," p. 9.

[23] Baker, Problems in State Constitution Revision, pp. 5–12.

[24] Ibid.; Gerston and Christensen, California Politics and Government, p. 43.

[25] Robert Desty, The Constitution of the State of California Adopted in 1879, with References to Similar Provisions in the Constitutions of Other States . . . to Which is Prefixed . . . a Parallel Arrangement of the Constitutions of 1863 and 1879 (San Francisco: Sumner Whitney & Co., 1879), pp. 70–71; Constitution of 1849, Article IV, Legislative Department, Sections 28, 29, Constitution of 1879, Article IV, Legislative Department, Section Six.

[26] David Hornbeck, California Patterns: A Geographical and Historical Atlas (Mountainview: Mayfield Publishing Company, 1983), Appendix A "Population of California Counties, 1850–1980," p. 95; Baker, Problems in State Constitution Revision, pp. 10, 12.

[27] Wilson, California's Legislature, 1994, pp. 72–73.

[28] Gerston and Christensen, California Politics and Government, p. 43.

[29] Constitution Revision Commission, Working Papers, California State Archives, Sacramento, California, Finding Aid, p. 1; Wilson, California's Legislature, 1994, p. 14.

[30] Constitution Revision Commission, Working Papers, Finding Aid, p. 7; Wilson, California's Legislature, pp. 14–16.

[31] Constitution Revision Commission, Working Papers, Finding Aid, pp. 11–12; Wilson, California's Legislature, 1994, p. 16.

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[33] Browne, Report of the Debates, pp. 161, 342, 458.

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[37] Ibid.

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[39] Secretary of State, Elections, Ballot Arguments, November 5, 1974, pp. 41, 87.

[40] Wilson, California's Legislature, 1994, Appendix C, "Governors of California, 1849–1994," "Lieutenant Governors of California, 1849–1994," pp. 193–94.

[41] Gerston and Christensen, California Politics and Government, pp. 11–30, 72.

[42] Browne, Report of the Debates, pp. 202–03, 346, 458.

[43] Willis and Stockton, Debates and Proceedings, pp. 1091–97.

[44] Ibid.

[45] Ibid.

[46] Ibid., 1107–09.

[47] Ibid., 1400–01.

[48] Ibid., 1474–76.

[49] Constitution Revision Commission, Working Papers, Article IX Committee Report, "Proposition 1, Article IX: Summary of Proposed Revision," pp. V-1, V-2; California State Archives, Constitution Revision Commission, Working Papers, Finding Aid, p. 11.

[50] Secretary of State, Elections, Ballot Arguments, June 2, 1970 Primary Election, pp. 15–17, 26.

[51] Ibid., November 8, 1988 election, pp. 99, 140.

[52] David Lavender, California: A Land of New Beginnings (Lincoln: University of Nebraska Press, 1972), p. 424.

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[57] Ibid., 46.

[58] Secretary of State, Elections, Ballot Arguments, November 6, 1934, p. 12.

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[63] Ibid., 381.

[64] Ibid., 382.

[65] Browne, Report of the Debates, 1849, p. 33.

[66] David W. Brady and Brian J. Gaines, "A House Discarded? Evaluating the Case for a Unicameral California Legislature." [prepared for California Constitution Revision Commission?], n.d.

[67] Ibid., 4, footnote 6, 5; Following Brady and Gaines selection of urban counties, 1910 and 1920 population totals for the north include San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, and Marin counties; for the south, Imperial, San Diego, Riverside, Orange, San Bernadino, Los Angeles, Ventura, and Santa Barbara counties. County and state totals taken from Hornbeck, California Patterns, Appendix A, "Population of California Counties, 1850–1980," pp. 94–95.

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[70] Ibid., 7–8.

[71] Constitution Revision Commission, Working Papers, Article IV, Report, 1965, "Staff Draft No. 1," p. 1.

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102 Ibid., 402.

[103] Constitution of Iowa, 1846, Article IV, Section 25, Constitution of New York, 1846, Article III, Section 6 in Congress, Constitutions of the Several States, (1852), pp. 149, 510.

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[111] Ibid., 7.

[112] Ibid., 5.

[113] Secretary of State, Elections Division, Ballot Arguments, June 8, 1976 Election, p. 58.

[114] Constitution Revision Commission, Working Papers, Article IV Report, 1965, "Staff Draft No. 1," pp. 22–23.

[115] Ibid., 25.

[116] Ibid., "Letter of Transmittal," 1.

[117] Ibid., 26.

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

KAREN L. STRAUSS, et al., Petitioners, v. **MARK D. HORTON, State Registrar of Vital Statistics, etc., et al.,** Respondents, **DENNIS HOLLINGSWORTH, et al.,** Intervenors.	S168047

[PROPOSED] ORDER

Good cause appearing therefor,

IT IS HEREBY ORDERED that the California Supreme Court will take judicial notice of the documents requested by Respondents.

DATED: _____, 2008

_____
Justice, California Supreme Court

SERVICE LIST FOR STRAUSS V. HORTON

CALIFORNIA SUPREME COURT CASE NO. S168047

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