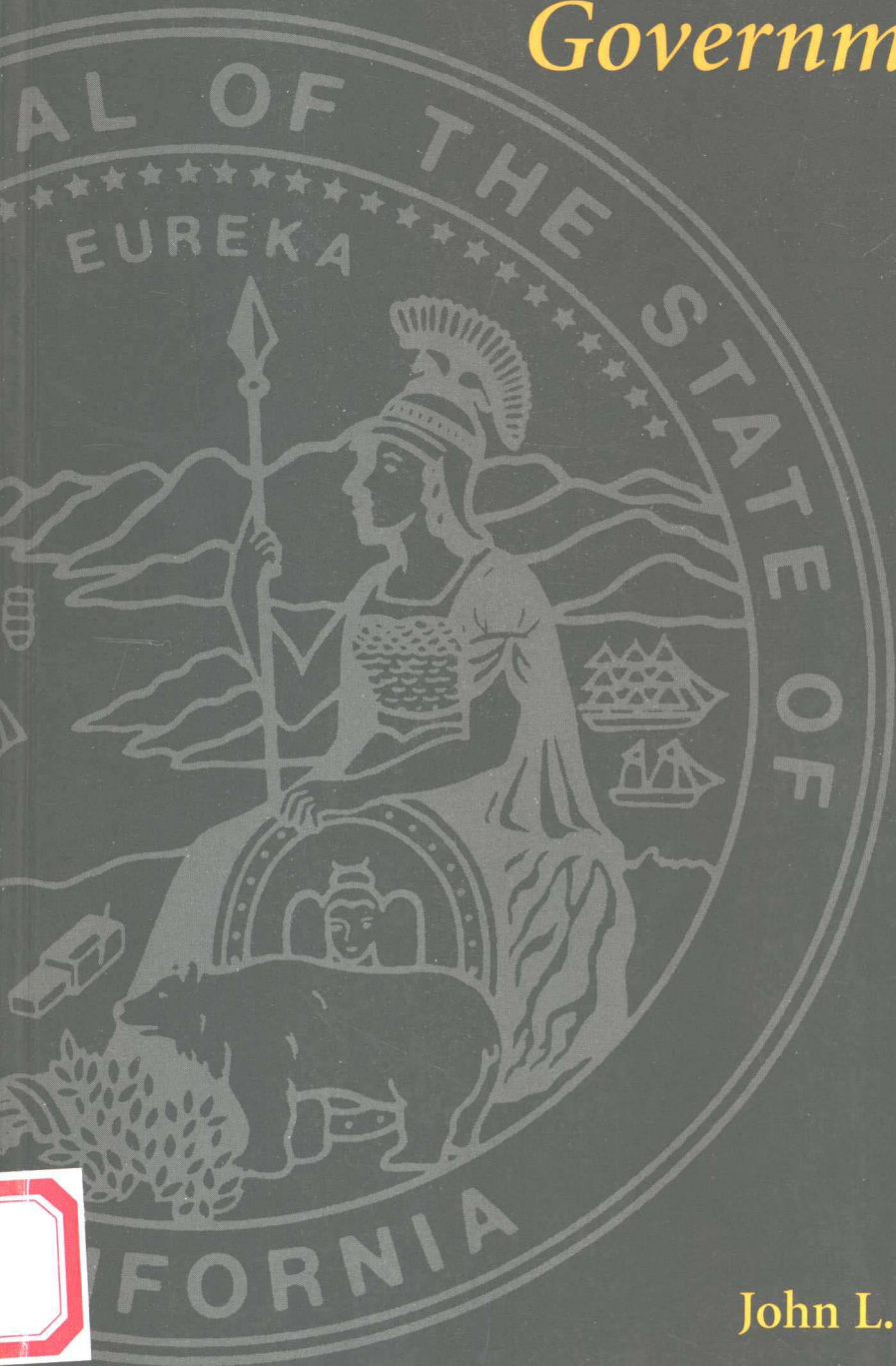


# *California Government*



John L. Korey

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John L. Korey

*California State Polytechnic University, Pomona*

D. C. Heath and Company  
Lexington, Massachusetts Toronto

To Mary

*Address editorial correspondence to*

D. C. Heath and Company  
125 Spring Street  
Lexington, MA 02173

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# Preface

As I am writing (January 1995), California is suffering massive flooding, the latest in a series of natural and social plagues of near biblical proportions to have buffeted the state in the 1990s. The state's political institutions, once the envy of the nation, have also suffered serious injuries, some self-inflicted.

And yet California's strengths remain enormous. Marshalling its resources to meet the challenges we face will, among other things, require of citizens an understanding of the state's political processes. Unfortunately, many, even among those fairly knowledgeable about what goes on inside the Washington beltway, remain largely uninformed about the many ways in which politics in California is distinctive.

*California Government* is intended to help bridge this gap in courses in American politics or state and local politics. Its brevity should make it an ideal supplement to a text on the national political system. A test item file of multiple-choice and essay questions is available to instructors.

I am very pleased to acknowledge the many people who helped me along the way. Carol Holder's Faculty Writing Workshop at Cal Poly, Pomona, provided valuable feedback and encouragement early in the project. Bill Ferraro of Southern Illinois University and Richard Stephens of the Automobile Club of Southern California read the entire manuscript in rough draft and made many felicitous suggestions for improvements in clarity and style. My colleagues at Cal Poly—Doug Glaeser, George Hart, and Don Pflueger—generously contributed to my education in the areas, respectively, of the judicial process and public law, parties and elections, and the state constitution. Lakewood city council member Marc Titel was equally helpful in the area of local government. The comments of Bryan Reece of Cerritos College, who reviewed the completed manuscript, were very insightful. Paul Smith and Karen Wise of D. C. Heath expertly guided me through the entire process.

Data, for parts of the analysis described in the text, were provided by the Inter-University Consortium for Political and Social Research and The Field Institute and made available to me through the Social Science Data Base Archive at Cal State, Los Angeles. Most of the photographs that illustrate the text were from the files of the Industrial Areas Foundation. Both Cal Poly, Pomona, and Cal State, Los Angeles (where I am serving the 1994–95 academic year as a visiting professor), have provided me with supportive and stimulating environments.

Finally, I wish to thank publicly my wife, Mary Haggerty Korey, our daughter Meghan, and our son David, not only for reading and commenting on the manuscript (and, in David's case, helping draft some of the illustrations), but for love for which I do not cease to be surprised and grateful.

All of these, and others as well, share the credit for whatever merits the text possesses. Unfortunately, I can't figure out any credible way to blame them for its deficiencies.

John L. Korey



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# 1. *Democracy, California Style*

For better and for worse, Californians *think* they are different. A few years ago, in response to a public opinion poll conducted in California by The Field Institute,<sup>1</sup> well over half of those interviewed said that Californians are “fundamentally different in some important ways” from other Americans. Specifically, Californians saw themselves as—among other things—more fun loving, trendy, “laid back,” enterprising, and innovative. Californians’ collective self-image is not, however, altogether self-congratulatory. Those surveyed also saw themselves (or their neighbors) as—among other things—more self-centered, self-indulgent, overly aggressive, money oriented, and status conscious than other Americans.

Moreover, the poll took place before the series of economic downturns, social upheavals, and natural disasters that have recently tarnished the Golden State and altered the perceptions of its residents. In a January 1994 Field Poll, only 41 percent of those interviewed described California as “one of the best places” to live, down from 78 percent in 1985.<sup>2</sup>

In more specifically political terms, the state has long enjoyed and suffered an image of being on the cutting edge of change; a place in which trends originate before sweeping the rest of the country. These trends might be in a liberal direction, such as the movements against nuclear power or for gay rights, or in a conservative direction, such as the tax revolt or the denial of public services to illegal immigrants. California is also seen by some as having a unique political style. Nationally syndicated columnist William Schneider once argued that “Californians, more than voters of any other state, like to think of politics in terms of right and wrong.” Californians, whether liberal or conservative, approach politics in a way that is “expressive and moralistic: politics as a contest of values. It is opposed to the more pragmatic style of politics dominant in the industrial East and Midwest, namely, politics as a contest of interests.”<sup>3</sup>

All of these assertions are difficult to either prove or disprove. The similarities between California and the rest of the nation clearly outweigh the differences. Figure 1.1 shows that in presidential elections from 1932 to the present, results in California

have closely paralleled those of other states. Over this time, the division of the vote in California between Democratic and Republican presidential candidates differed from the rest of the country by an average of less than 3 percent. Since 1932, the candidate receiving the most votes elsewhere did so in California as well on all but two occasions, 1960 and 1976.

There are, however, some ways in which California is demonstrably different. In Chapter 4, we will examine whether or not Californians differ from other Americans in their opinions on controversial political issues. In this chapter, we will look at the way in which politics is practiced in California, focusing on some of the things that make the process of politics a little different here than it is at the federal level and in many other states.

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## DEMOCRACY: DIRECT VERSUS REPRESENTATIVE

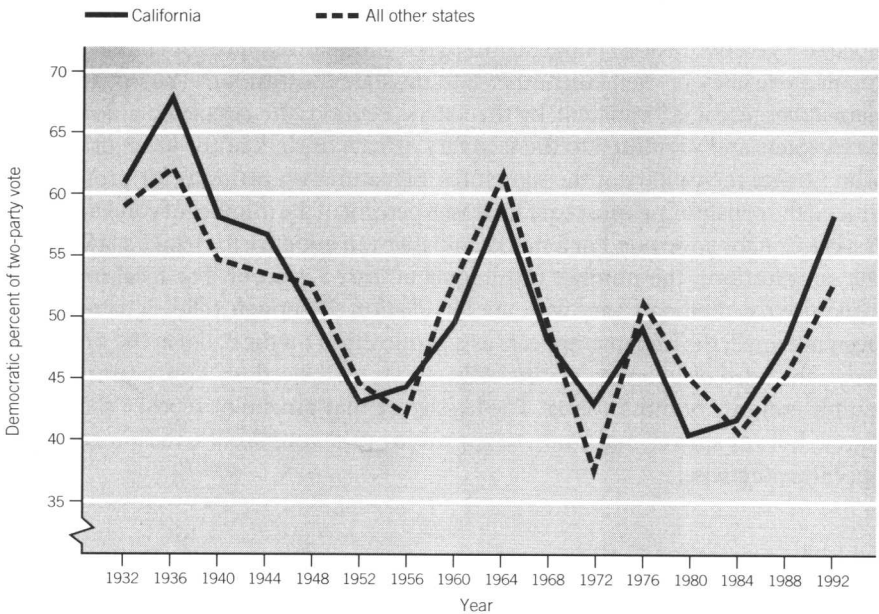
In *Federalist Paper No. 10*, written in 1787 to support ratification of the Constitution of the United States, James Madison argued the advantages of a republic over a pure democracy. By a pure democracy, he meant what today we call a **direct democracy**, a system in which the people themselves decide what public policy should be. By a republic he meant what today we more commonly call a **representative democracy**, a system in which such decisions are made not by the people themselves but through representatives the people choose to act on their behalf. The U.S. Constitution was designed to provide representative rather than direct democracy. At the national level, citizens are guaranteed by the Constitution the right to “petition the government for redress of grievances,” but new legislation can be formally introduced only by a member of Congress. Measures approved by Congress and (usually) the president do not have to be ratified by popular vote to become law. If citizens do not like the way that their elected representatives are acting, they must wait until the next regularly scheduled election to “throw the rascals out.”

For the most part, government in California also operates according to the model of representative democracy. The vast majority of the state’s laws were introduced into the state legislature by one of its members, passed by the legislature, and signed into law by the governor. Elected officials, even those who become widely unpopular, are usually able to serve out their full terms of office.

There are, however, some important exceptions. Many of these date from the Progressive Era in the early years of the twentieth century.<sup>4</sup> The **Progressives**, led primarily by middle-class business and professional people, took on what they saw as excessively concentrated economic power. A special target was the railroad industry. At a time when automobile and air transportation were in their infancy, the railroads were essential for the survival and prosperity of the cities. In rural areas, the position of the railroads was at least as important. Not only did trains provide the means for moving goods to and from farms, but the railroad companies also owned much of the

**FIGURE 1.1**

Presidential Elections, 1932–1992



SOURCES: 1932–1968, *Historical Statistics of the United States* (Washington, D.C.: Bureau of the Census); 1972–1992, *Statistical Abstract of the United States* (Washington, D.C.: Bureau of the Census, various years).

most fertile land. The resulting power of the railroad industry in the economic sphere extended to the political sphere as well. The state legislature, and both the Democratic and Republican parties, were widely perceived to be subservient to the railroads.

The Progressive movement cut across party lines, though most of the important battles between the Progressives and their opponents were fought out within the then majority Republican party. The hostility of the Progressives toward the railroad industry extended to the institutions through which that industry exercised political power. The underlying problem, as the Progressives saw it, was that popular control over government was weak because it was indirect. They hoped to make government more responsive by providing the people with the means to make policy themselves as well as through the political parties and the legislature. In 1910 they succeeded in electing Hiram Johnson as governor and in winning control of the state legislature. They were then able to incorporate many of their ideas into the state's constitution and laws.

In addition to other provisions (discussed elsewhere in this text) that weakened the power of the political parties and that, within the parties, gave power to rank and file voters rather than party officials, the Progressives put in place mechanisms for direct democracy. As it operates in California, direct democracy has three components: the **initiative**, the **referendum**, and the **recall**.

---

## THE INITIATIVE<sup>5</sup>

The initiative is the purest form of direct democracy. Through it voters can bypass the normal legislative process altogether in making local ordinances or charter amendments, state laws, or even amendments to the state constitution. The initiative is so named because it is “initiated” by the voters. Petitions are circulated among registered voters and submitted to the secretary of state or clerk of the local jurisdiction who verifies the validity of the signatures. Signatures on petitions for proposals to amend the constitution must equal at least 8 percent of the number of votes cast in the last election for governor. For a statute initiative (an initiative to change a law but not the constitution), the number must equal at least 5 percent. For local initiatives, signature requirements vary with the jurisdiction. If enough valid signatures have been obtained, the initiative appears as a **proposition** on the ballot at the next regularly scheduled election or, occasionally, at a special election. Approval requires a simple majority of those voting. The legislature may amend or repeal a statute initiative, but any such changes must be approved by the voters unless the initiative itself specifies otherwise.

---

## THE REFERENDUM<sup>6</sup>

The referendum is so named because decisions made by elected officials are “referred” to the voters for approval or disapproval. Even before the Progressive era, an amendment to the state constitution had to be referred to the electorate. Because it is necessarily referred to the voters after passing the state legislature by a two-thirds vote of the total membership of each chamber, it is called a **compulsory referendum**. Referral to the voters is also compulsory for measures to authorize the sale of most government bonds as well as for city and county charter amendments.

Most measures passed by legislative bodies in California may be overruled by a **petition referendum**. In a petition referendum, those opposing a measure that has been passed circulate petitions asking that the measure be referred to the voters for approval before becoming law. As with initiatives, petitions must contain valid signatures of registered voters equal to at least 5 percent of the number voting in the last gubernatorial election. Signature requirements for local petition referendums vary with the jurisdiction. Petition referendums are not very common, though in 1982 voters rejected redistricting plans for congressional, state Senate, and state Assembly districts that had been approved by the state legislature and the governor.

As with initiatives, approval of either compulsory or petition referendums requires a simple majority of those voting. If two or more conflicting propositions (referendum or initiative, or both) appear on the ballot at the same time and both are approved, the one passing with the highest percentage of “yes” votes will prevail.<sup>7</sup>

In addition to choosing a variety of elected officeholders, Californians also vote to approve or disapprove referendums and initiatives. The measures shown here are from the 1994 general election in Los Angeles County.

### STATE MEASURES

<b>187</b>	<b>ILLEGAL ALIENS. INITIATIVE STATUTE.</b> Makes illegal aliens ineligible for public social services, public health care services (unless emergency under federal law), and attendance at public schools. Requires state/local agencies report suspected illegal aliens. Fiscal Impact: Annual state/local program savings of roughly \$200 million, offset by administrative costs of tens of millions (potentially more than \$100 million in first year). Places at possible risk billions of dollars in federal funding for California.	<b>183</b>	<b>YES</b> ➡ <input type="radio"/>
		<b>184</b>	<b>NO</b> ➡ <input type="radio"/>
<b>188</b>	<b>SMOKING AND TOBACCO PRODUCTS. LOCAL PREEMPTION. STATEWIDE REGULATION. INITIATIVE STATUTE.</b> Preempts local smoking laws. Replaces existing regulations with limited public smoking ban. Permits regulated smoking in most public places. Increases penalties for tobacco purchases by, and sales to, minors. Fiscal Impact: Likely, but unknown, annual increase in state and local government health care costs and state tobacco tax revenues. State enforcement costs of less than \$1 million annually.	<b>187</b>	<b>YES</b> ➡ <input type="radio"/>
		<b>188</b>	<b>NO</b> ➡ <input type="radio"/>
<b>189</b>	<b>BAIL EXCEPTION. FELONY SEXUAL ASSAULT. LEGISLATIVE CONSTITUTIONAL AMENDMENT.</b> Amends State Constitution to add felony sexual assault to crimes excepted from right to bail. Other exceptions already include capital offenses and felonies involving violence or threats of bodily harm to others. Fiscal Impact: Unknown, but probably not significant, costs to local governments; unknown, but probably not significant, savings to the state.	<b>191</b>	<b>YES</b> ➡ <input type="radio"/>
		<b>192</b>	<b>NO</b> ➡ <input type="radio"/>
<b>190</b>	<b>COMMISSION ON JUDICIAL PERFORMANCE. LEGISLATIVE CONSTITUTIONAL AMENDMENT.</b> Transfers disciplinary authority over judges from California Supreme Court to Commission on Judicial Performance; provides for public proceedings; specifies circumstances warranting removal, retirement, suspension, admonishment, or censure of judges; increases Commission's citizen membership. Fiscal Impact: Not likely to have a significant fiscal impact on the state.	<b>195</b>	<b>YES</b> ➡ <input type="radio"/>
		<b>196</b>	<b>NO</b> ➡ <input type="radio"/>
<b>191</b>	<b>JUSTICE COURTS. LEGISLATIVE CONSTITUTIONAL AMENDMENT.</b> Abolishes justice courts; incorporates their operations, judges, and personnel within municipal courts. Authorizes Legislature to provide for organization, jurisdiction of municipal courts and qualification and compensation of municipal court judges, staff. Fiscal Impact: Probably no significant fiscal impact on state or local governments.	<b>199</b>	<b>YES</b> ➡ <input type="radio"/>
		<b>200</b>	<b>NO</b> ➡ <input type="radio"/>

### COUNTY MEASURE

<b>A</b>	<b>CHARTER AMENDMENT. COMPENSATION OF ELECTED COUNTY OFFICERS.</b> This amendment would permit the Board of Supervisors to increase or decrease the compensation of an elective County officer, other than Supervisor, when the office changes hands or when a mid-term vacancy is filled by appointment, and deletes an obsolete provision.	<b>205</b>	<b>YES</b> ➡ <input type="radio"/>
		<b>206</b>	<b>NO</b> ➡ <input type="radio"/>

## THE RECALL<sup>8</sup>

The recall is a procedure whereby voters can remove any elected state or local officeholder without having to wait until the end of the official's term of office. Dissatisfied constituents must circulate a petition among registered voters calling for the official's removal and stating the reasons for doing so. The reasons given can be any that the

petitioners deem appropriate and need not cite illegal behavior. For state officials, the percentage of signatures required varies from 12 to 20 percent of the number voting for that office in the last election, depending on the office.

None of these elements of direct democracy exist at the federal level in the United States. Among the states, the situation is varied. All states except Delaware have the referendum in some form as a means of amending the state constitution, and twenty-three provide for the petition referendum.<sup>9</sup> California is one of twenty-four states that provide for some form of initiative, though a few of these provide it only for statutes and a few others only for constitutional amendments.<sup>10</sup> Seventeen states, including California, provide for the recall of at least some officeholders.<sup>11</sup>

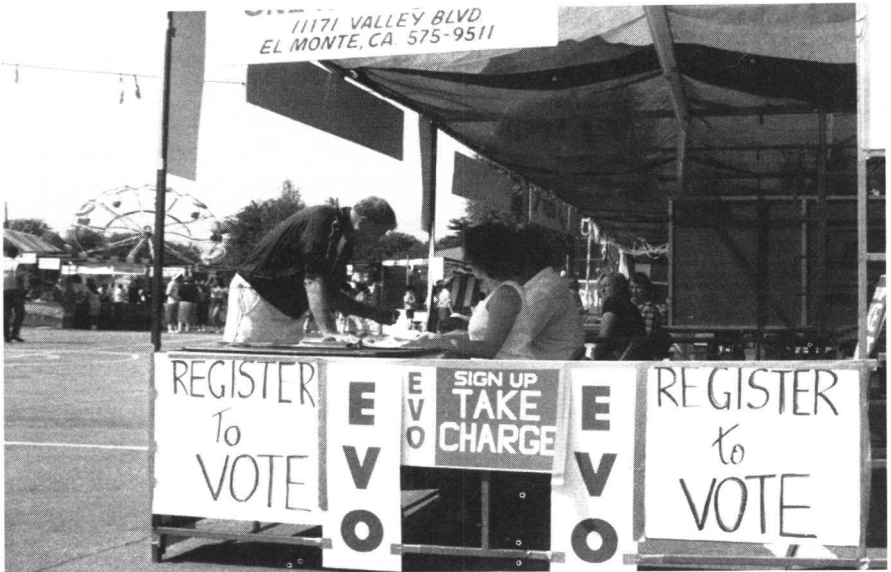
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## THE CONTINUING CONTROVERSY

Like the federal government and all fifty states, California's form of government is basically that of representative government. In California and other states influenced by the legacy of the Progressives, representative government has been modified, not replaced, by an overlay of direct democracy. Whether or not this was a good idea remains controversial. This is especially true of the initiative, which, unlike the referendum and the recall, does not merely check, but completely bypasses the system of representative government. One newspaper editorial a few years ago called it "The monster that threatens California politics."<sup>12</sup>

Critics argue that initiatives are often much too complicated for even a very conscientious voter to assess intelligently. They may be thousands of words in length and deal with very technical matters such as taxation, energy management, or governmental organization. To expect voters to make informed decisions on these issues involves unrealistic assumptions about the amount of time a voter can be expected to spend studying the ballot. In one poll, respondents estimated that they would spend on average about two hours reading the ballot pamphlet distributed by the secretary of state for an election that was to take place the next month.<sup>13</sup> Even if we take this optimistic figure at face value, this works out to about thirty seconds per page of very small print. Legislators also have difficulty coping with the complexities of contemporary policy issues, but they are paid to do so and are assisted by their staff and by listening to the testimony of expert witnesses on both sides who appear at hearings. Moreover, by its nature, the initiative process requires voters to consider proposals on a piecemeal basis, despite the complex interconnectedness of public policies.

Although designed to counteract the power of well-heeled interest groups, critics point out that the initiative has actually had the opposite effect. It has worked to further the interests of those who can organize large-scale petition drives and finance mass media campaigns. Instead of giving "power to the people," the process gives power to special interests.



Church fiesta offers voter registration forms as well as ferris wheel rides. (*Althea Edwards*)

Direct democracy, which the initiative process promotes, has been described as “four wolves and a lamb voting on what to have for lunch.” A key advantage of representative over direct democracy is that, in the former, decisions can be reached only after a process of bargaining, negotiation, and compromise among various interests. In this way, majority rule is tempered by a need to take into account the rights of a variety of interests and points of view. The initiative process provides for no such balancing. Initiatives are presented to voters on a “take it or leave it” and “winner take all” basis.

More philosophically, the model of human behavior implicit in the initiative process is defective in that it considers each voter as an isolated individual and defines the public will as the summation of all individual wills. We are, however, social beings. Our interests are often those of the groups to which we belong or with which we identify. It would be undesirable, even if it were not unrealistic, to view voters simply as an aggregation of isolated individuals.

Defenders of the initiative note that despite fears that they will be overwhelmed by the complexity of the issues facing them and swayed by rhetoric and demagoguery, voters have in fact demonstrated a healthy skepticism and the ability to discern good public policy from what is unwise or unjust. The initiative process has been used sparingly. Voters have been quite selective, and they have rejected most initiative proposals.

While concern about abuses of majority power is valid, our system of government is so guarded against this danger, through an elaborate system of checks and balances,



that the institutions of representative democracy often become “gridlocked” and legitimate majority rule is thwarted. Defenders of the initiative argue that our modest and limited experiment with direct democracy is simply a step toward restoring popular sovereignty. Proposition 13 (1978), which dealt with property taxes, and Proposition 103 (1988), which dealt with auto insurance, passed only after the governor and the state legislature had been unwilling or unable to deal with these problems. The checks and balances remain in place, and those who feel that their interests have been slighted may resort to them. For example, after voters in 1994 passed Proposition 187, denying a variety of services to illegal immigrants, opponents filed lawsuits in both federal and state courts challenging the constitutionality of the initiative. At this writing, the courts have suspended most provisions of the measure pending the outcome of the suits.

Despite any perceived drawbacks in the initiative system, it is highly popular with voters. Direct democracy is successful on its own terms—the people want it. Opinion polls continue to show that, by wide margins and across all usual political divisions, voters think that the initiative process has been a good thing for California.<sup>14</sup>

## NOTES

1. *December 1989 Field Poll* (San Francisco: The Field Institute, 1989). Data were furnished electronically through the Inter-University Consortium for Political and Social Research.
2. “Californians’ Once Golden Image of the State Has Palled Considerably in Recent Years,” *The Field Institute Press Release*, no. 1703 (10 February 1994).
3. William Schneider, “The Demo’s Ratings: Good Television, but Bad Politics,” *Los Angeles Times* (3 June 1984).
4. George Mowry, *The California Progressives* (Berkeley: University of California Press, 1951).
5. *Constitution of the State of California*, art. II sect. 8, art. XVIII sect. 3.
6. *Ibid.*, art. II sect. 9, art. XVI sect. 2, art. III sect. 2.
7. *Ibid.*, art. II sect. 10.
8. *Ibid.*, art. II sect. 14, and California Election Code, sects. 27310–27312.
9. *The Book of the States, 1994–95* (Lexington, Ky.: Council of State Governments, 1994), 21–22, 294. The table on page 294 shows Alabama rather than Delaware as the only state lacking the referendum for constitutional amendments. Since this table appears to be in part derived from the more detailed table that begins on page 21 I have relied on the latter. Twenty-four states provide for a voluntary referendum that allows but does not require the legislature to refer a statute to the electorate for approval.
10. *Ibid.*, 23, 294. Some of these states provide for only an indirect initiative in which measures, after having acquired the requisite number of signatures, must be submitted to the legislature before appearing on the ballot.
11. *Ibid.*, 305–306. Judges are the officeholders most commonly exempted from recall procedures.
12. “Initiatives: The Monster That Threatens California Politics,” *Los Angeles Times* (12 November 1990).
13. *October 1990 Field Poll* (San Francisco, Ca.: The Field Institute, 1990). Data were furnished electronically through the Inter-University Consortium for Political and Social Research.
14. *Ibid.*