

1920

## COMMUNITY PROPERTY

Follow this and additional works at: [http://repository.uchastings.edu/ca\\_ballot\\_props](http://repository.uchastings.edu/ca_ballot_props)

---

### Recommended Citation

COMMUNITY PROPERTY California Proposition 13 (1920).  
[http://repository.uchastings.edu/ca\\_ballot\\_props/142](http://repository.uchastings.edu/ca_ballot_props/142)

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact [marcusc@uchastings.edu](mailto:marcusc@uchastings.edu).

(5) Compensation of the teaching force must be increased. There has been an increase of but 25 per cent in salaries in the past ten years. In consequence, the problem of getting competent instructors grows increasingly difficult. The best experts are either sought by other institutions which offer higher compensation, or go into private business. These men must have spent at least seven years of nonremunerative time in order to qualify for their positions, and for some time past only loyalty to the University has kept many of the best men there. The threatened loss of our best experts in farming, irrigation, mining, engineering and the other arts and sciences must be avoided at all hazards.

(6) Under the present system, the University must ask for aid each legislative session. Our legislatures have been generous, but even this experience in the past can not take away the constant uncertainty for the future. No comprehensive plan of growth and expansion can now be made. The proposed plan will remove this uncertainty and avoid the necessity of a scramble for funds.

(7) Other states, sixteen in number, have recognized this principle of the automatic tax as being the best method of supporting a state university.

(8) By this measure every taxpayer who has property subject to assessment of the assessed value of \$1,000 will pay \$1.20 per year for the support of the University and all its branches. The University may remain a free institution, without tuition fees, and its services to our agricultural, mining and other interests can grow from year to year to meet the growing needs of the state.

WARREN GREGORY,  
President Alumni Association of the  
University of California.

#### ARGUMENT AGAINST STATE UNIVERSITY AD VALOREM TAX.

This measure to raise funds for the State University is fundamentally wrong. It is unjust from the standpoint of taxation. It violates all the traditions and practices controlling and safeguarding the handling of public funds. In violation of the present provisions of the con-

stitution it places a yearly burden of over four million dollars upon the home, the farm, the business and the industry and relieves public service corporations from paying any portion of the tax. This measure places this large sum which increases yearly at the rate of about seven per cent, without reservation in the hands of the Board of Regents of the University. The people will have no control of this money either through the Legislature or by initiative legislation, unless they again amend the constitution. Therefore, this ad valorem tax now proposed is not the same as the old ad valorem tax which was formerly levied for the University. The old tax was levied by the Legislature and subject to positive control by the Legislature and responsive to public desire and demand. For years California provided a mill tax for the University and at this time other states provide mill taxes for their universities, but the public funds so raised were and are properly safeguarded by provisions which are entirely lacking in the measure now before the people. This measure sets aside public funds not only beyond control of the people, but in excess of the present necessity of the University. At present there is annually appropriated to the University out of public funds slightly over two and one-half million dollars. This measure adds to that the sum of one and one-half million dollars, while the actual additional needs of the University have been stated by friends of the University to be not in excess of one million dollars a year. This measure places the University in a much favored position ahead of the public schools, of the courts, of the state functions for public safety, and ahead of the support of our dependents and the care of our widowed mothers and orphaned children. It is preposterous that a measure of this kind should be presented for public approval. Surely the voters of this state will not approve a measure which levies upon them an unequal and unjust tax, which places public funds beyond proper control, and sets such funds aside regardless of other equally meritorious or more necessary needs. The measure should be defeated.

CLYDE L. SEAVY.

**13** **COMMUNITY PROPERTY.** Act submitted to electors by referendum. Amends Civil Code sections 1401 and 1402, adding thereto sections 1402a and 1271. Gives either spouse right to will half of community property to lineal descendants or other spouse, but not otherwise without latter's written consent. In absence of testamentary disposition vests entire community property in surviving spouse except any portion reserved by judicial decree for wife's support which, if not willed by her, vests in her heirs excluding husband. Excludes half of community property from inheritance taxes and in computing administration fees.

YES	
NO	

Whereas, the legislature of the State of California, in regular session in April, 1919, passed, and the governor of the State of California, on the twenty-seventh day of May, 1919, approved a certain act, which act, together with its title, is in the words and figures following, to wit:

#### PROPOSED LAW.

An act to amend sections one thousand four hundred one and one thousand four hundred two of the Civil Code, relating to the distribution of community property on death of husband or wife, to add a new section to the Civil Code to be numbered one thousand four hundred two a, relating to inheritance taxes and compensation of executors and administrators and attorneys fees, and to add a new section to the Civil

[Thirty-eight]

Code to be numbered one thousand two hundred seventy-one, relating to the disposition of community property by will.

The people of the State of California do enact as follows:

Section 1. Section one thousand four hundred one of the Civil Code is hereby amended to read as follows:

1401. Upon the death of the wife, one-half of the community property belongs to the surviving husband, and the other half is subject to the testamentary disposition of the wife, subject, however, to the provisions of section one thousand two hundred seventy-one of the Civil Code; and in the absence of such testamentary disposition, the entire community property goes to the surviving husband without administration, except such portion thereof as

may have been set apart to the wife by judicial decree for her support and maintenance, which portion is subject to her testamentary disposition, and in the absence of such disposition goes to her descendants or heirs, exclusive of her husband, and the fact of intestacy may be determined by proceedings under section one thousand seven hundred twenty-three of the Code of Civil Procedure. When the wife makes testamentary disposition of her interest in the community property, the entire community property is subject to the community debts, and the charges and expenses of administration. Prior to admission of any such will to probate, the husband shall continue in the management and control of the community property; after the admission of the will to probate, the court may and so far as the proper and advantageous administration of the estate will permit, must continue the management and control of the community property in the husband, who from time to time shall account to the estate for such management and control.

Sec. 2. Section one thousand four hundred two of the Civil Code is hereby amended to read as follows:

1402. Upon the death of the husband, one-half of the community property belongs to the surviving wife, and the other half is subject to the testamentary disposition of the husband, subject, however, to the provisions of section one thousand two hundred seventy-one of the Civil Code, and in absence of such testamentary disposition, it all goes to the surviving wife upon administration. In case of the dissolution of the community by the death of the husband, the entire community property is equally subject to his debts, the family allowance and the charges and expenses of administration.

Sec. 3. A new section is hereby added to the Civil Code to be numbered one thousand four hundred two a, and to read as follows:

1402a. The one-half of the community property which belongs to the surviving spouse shall not be subject to inheritance tax or be reckoned as part of the estate of the deceased spouse for the purpose of fixing the compensation of executors or administrators or fixing attorneys fees.

Sec. 4. A new section is hereby added to the Civil Code to be numbered one thousand two hundred seventy-one, and to read as follows:

1271. Either husband or wife may, by will, dispose of his or her half of the community property by and with the consent of the other, which consent must be in writing upon or attached to the will; but either spouse may, without the consent of the other, make such testamentary disposition in favor of the other spouse or of the lineal descendants of the testator.

And whereas, said regular session of the said legislature finally adjourned April 22, 1919, and ninety days having not expired since said final adjournment;

Now, therefore, sufficient qualified electors of the State of California have presented to the secretary of state their petition asking that said act, hereinbefore set forth, so passed by the legislature and approved by the governor, as hereinbefore stated, be submitted to the electors of the State of California for their approval or rejection.

#### EXISTING PROVISIONS.

Sections one thousand four hundred one and one thousand four hundred two of the Civil Code, proposed to be amended, now read as follows:

(Provisions proposed to be repealed are printed in italics.)

1401. Upon the death of the wife, the entire community property, without administration, belongs to the surviving husband, except such portion thereof as may have been set apart to her by judicial decree, for her support and maintenance, which portion is subject to her

testamentary disposition, and in the absence of such disposition, goes to her descendants, or heirs, exclusive of her husband.

1402. Upon the death of the husband, one-half of the community property goes to the surviving wife, and the other half is subject to the testamentary disposition of the husband, and in the absence of such disposition, goes to his descendants, equally, if such descendants are in the same degree of kindred to the decedent; otherwise, according to the right of representation; and in the absence of both such disposition and such descendants, is subject to distribution in the same manner as the separate property of the husband. In case of the dissolution of the community by the death of the husband, the entire community property is equally subject to his debts, the family allowance, and the charges and expenses of administration.

#### ARGUMENT IN FAVOR OF PROPOSED NEW COMMUNITY PROPERTY LAW.

This is a referendum to the people of the law passed by the Legislature restoring to the wife approximately the rights of disposal of community property after death which she had under the original California community property law of 1850, and still has in all other community property states except Nevada and possibly New Mexico. Since 1860, by various amendments, California women have been deprived of their equal community property rights which they had under the original law and have not been given other property rights in place of them.

This measure does not apply to the separate property of either spouse acquired before marriage, or by gift or inheritance afterward, nor interfere with the present control by the husband of community property. Its chief change is to restore the right of the wife to bequeath her half to her husband or children, or with the consent of her husband to others. The husband's right of disposal of his half is made identical. At present, he has unlimited right, and she has no right, to dispose of the community half by will. Under this proposed law if the husband or wife die intestate, the entire community property goes to the surviving spouse instead of to other heirs. Attorneys' and executors' fees are somewhat reduced.

Such objections as are urged to the general policy of this measure are inconsistent, some demanding more and some less rights for both spouses, and some objecting to equality. This law, after years of consideration, takes middle ground. Administratively there is little change. The husband remains in control during the wife's life, and afterwards if she leaves no will or leaves her half to him. If she leaves it to her children, or with his consent to others, he remains undisturbed until administration, and thereafter if possible. The number of business readjustments on the death of the wife will be very little increased and those on the death of the husband greatly decreased. Experience in the other community property states where a law similar to this is in effect shows by the undisputed testimony of public officials and other reliable citizens that the fear of business disturbance is unfounded.

Practically all the objections made to this bill are mere technical minutiae and if space permitted could be shown to be unsound. If technical amendment of this law is needed (as is true of most laws) the Legislature sitting in January can amend it. The people must accept or reject it outright and since the law is fundamentally sound they should uphold it. That the existing law is unjust and inconsistent and the

proposed law fundamentally right is generally conceded. It is the fruition of many years of effort by the women of California to restore their original equal rights. The people should approve the law and leave the technical amendments to the Legislature.  
Vote "Yes." **CHESTER H. ROWELL.**

**ARGUMENT AGAINST PROPOSED NEW COMMUNITY PROPERTY LAW.**

The justification for the present law, permitting the wife to inherit half of the community property upon her husband's death and the husband to retain title and possession of all of it, upon his wife's death, is that during his life, the husband is the sole "bread winner" of the family and is criminally and civilly responsible for their care and support, while the wife neither makes the living nor has any corresponding legal liabilities.

To justify the change sought by the new law, two things must occur:

1. The proponents must prove that the existing law is unsound and unjust, that married men are not the family providers and that at their death they fail to make proper provision for their families.

2. The present laws imposing liabilities upon the husband must be repealed or new statutes enacted imposing equal responsibilities upon the wife. If "equality" between married people in their community property is desired, the wife must assume half of the responsibilities when she takes half of the benefits. The proposed law gives the wife, at the death of her husband, if he leaves no will, all of such property, but carries with it none of the financial burdens.

It is reliably said that all property passes through the probate court every twenty-five years. In requiring community property to be administered upon both at the husband's and

wife's death, a substantial part of all property will be forced through court every twelve and one-half years.

If this measure is adopted, it will do three far-reaching and unjust things:

1. If either husband or wife dies without will, the survivor takes the whole community property, cutting off children and relatives of the deceased.

2. Either husband or wife, may, without the consent of the other, will half of the community property to the decedent's children (who may be by a former marriage) or other descendants, but not one dollar can be left to a dependent parent, brother, sister or other relative or to any worthy charity without the other spouse's written consent endorsed upon or attached to the will. Such consent may be either declined or later secretly revoked, thus enabling the surviving spouse to inherit the whole of the community property to the exclusion of all other heirs.

3. All existing wills of married people will become potentially void.

If the wife is given the power to devise half of the community property, she will be expected to do so, thus dragging into the probate court her husband's business or their small home or farm, forcing liquidation of his debts, surrender of ownership of the property, and probable division with minor heirs, distant relatives or strangers. The credit of married men will be impaired at least fifty per cent if not more.

The proposed statute forces the husband to pay an inheritance tax upon half of the community property, where he pays none now.

Married people without children have no power under this act to will any of the community property without joint written consent.

The measure will tend to seriously disrupt not only business but family relations. Vote "No."  
**L. H. ROSEBERRY.**

<p><b>INSURANCE ACT.</b> Submitted to electors by referendum. Prohibits any subsidiary corporation, agent, or employee of, or person or corporation controlled by, any bank organized under laws of California or of any state in the United States, from acting as general agent or department manager of any</p>	<p>YES</p>
<p><b>14</b> insurance company transacting business in California, and prescribes conditions under which they may act as local agent therefor; declares appointment of life, health and accident, title or county mutual insurance agents, or of any insurance agent in or for any place having population not exceeding five thousand, unaffected hereby; and prescribes penalties.</p>	<p>NO</p>

Whereas, the legislature of the State of California, in regular session in April, 1919, passed, and the governor of the State of California, on the twenty-seventh day of May, 1919, approved a certain act, which act, together with its title, is in the words and figures following, to wit:

**PROPOSED LAW.**

An act regulating the appointment of the agents or employees of state banks and subsidiary corporations dominated or controlled by state banks as insurance agents and prohibiting the appointment of the agents or employees of state banks and subsidiary corporations dominated or controlled by state banks as general insurance agents or managerial agents or department managers of certain insurance companies.

The people of the State of California do enact as follows:

Section 1. It shall be unlawful for any subsidiary corporation, agent or employee of any bank organized or existing under the laws of

the State of California or the laws of any other state of the United States, or any person or corporation controlled or dominated by such bank to act as the general agent or managerial agent, or department manager, of any insurance company transacting business in the State of California.

Sec. 2. It shall be unlawful for any insurance company transacting business in the State of California to engage, appoint, maintain or employ any subsidiary corporation, agent or employee of any bank or any person or corporation controlled or dominated by any bank, as the general agent or managerial agent or branch manager or department manager of such insurance company.

Sec. 3. No subsidiary corporation dominated or controlled by any bank, or any agent or employees of such bank shall be permitted to act as the local agent of any insurance company, except as follows:

Such agent or employee of such bank or such subsidiary corporation dominated or controlled by such bank shall file an application in writing with the insurance commissioner of the State of