

An Unbalanced Proposition

California's Governor recently mooted the passage of Proposition 187 by announcing that he would no longer fight legal challenges to it. Prop. 187 was an emotionally-charged law, as much symbol as working legislation, and even its demise caused some furor. In the end, it failed not directly because of its controversial nature, but rather because of the mechanism used to implement it.

Ballot propositions are intended to appeal directly to the people and avoid bureaucratic red tape. Their very purpose is to circumvent the existing political system and avoid the traditional legislative process. Proponents say that this allows laws that make needed changes to the status quo to be enacted quickly when legislative inertia would prevent change.

This may be true. Certainly ballot propositions have become law that would never have been passed through the legislature. Some have ultimately proven their worth and others have been shown to be short-sighted. And, as in the case of Prop. 187, some have become orphans.

187 disappeared because there was no one to fight for it when it needed a champion. Had the law been passed by the legislature and abandoned by the Governor, there would have been repercussions. A majority of legislators who supported the bill would remember the act and fight the governor on some issue that he supported. They might have used their taxation powers to force the issue. In any case, the checks and balances that were crafted and tested by the government's founders would act on the law's behalf.

Because the ballot proposition process introduces such orphans into the system by circumventing it, ballot laws often have insufficient support when push comes to shove. Ballot propositions are naturally less likely to have legislative support than other laws, or they would have been put forward by the legislature. The result of circumventing the system is that such laws not only bypass the system's slow procedures, but the checks and balances that those procedures foster. A bill that fights its way through committee takes longer, but probably is more ardently supported than one voted on in one election.

I'm no fan of ballot propositions. I think laws need to be deliberated on and ultimately be the product of compromise. I believe that voting for incompetent venial boobs as representatives should have consequences. I believe that if after being confronted with those consequences, people are still foolish enough to vote for the venial boobs they get what they deserve. And I believe that quick fixes designed to sneak laws past the boobs that were elected is doomed to failure.

The system of checks and balances that forms the basis of America's republic actually works pretty well. But it can't be cheated. It works best when good people are put in government, and attempts to sidestep that prerequisite are not realistic. Ask any orphaned bill.