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**Proposition 13 Thirty Years after the Revolution:
What Would Howard Jarvis Say?**

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Abstract

Thirty years after its passage, Proposition 13 did the job it was intended it to do. People are secure in their homes because the property tax is controlled and state government has not been shortchanged.

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Proposition 13 Thirty Years after the Revolution: What Would Howard Jarvis Say?

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Proposition 13 coproponents Howard Jarvis and Paul Gann were not around to celebrate the measure's 30th anniversary. They were senior citizens when the measure was on the 1978 ballot. Jarvis passed away in 1986, Gann in 1989.

Jarvis was the more visible and recognizable of the two proponents, indeed it was Jarvis who appeared on the cover of *Time* magazine after Proposition 13 passed. For his efforts in leading the Proposition 13 fight, Jarvis was even named a runner-up as *Time* magazine's man of the year.

Since he is not here, we have to wonder what Howard Jarvis might say as Proposition 13 reached its 30th anniversary.

I suspect he would say Proposition 13 did the job he intended it to do. People are secure in their homes because property tax is controlled. And, he would argue Proposition 13 has not shortchanged government. He always claimed to have talked to experts about the acquisition property tax system (in which assessments on the property are determined at the time of purchase with a set increase allowed for inflation gain). Jarvis said the experts told him when houses and commercial property were resold and reassessed at market value, along with new construction; government would receive increasing and adequate revenue.

One thing that would not surprise Jarvis is that a legion of critics is still trying to knock down his masterwork. He would undoubtedly use some colorful language to push back against his critics as he always did. "Popcorn balls" was a favorite ex-

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pression. I'm not sure what that meant, but political discourse has displayed much more outrageous epithets over the years.

What would please Jarvis most of all would be the realization that few homeowners are threatened by unmanageable property taxes. I remember how he would marvel at the homes stretching in all directions as the airplane he traveled on slowly came in for a landing at LAX, and he would say, "I sure saved a lot of people their homes with Prop. 13."

If Jarvis were here today, he would look at places like Silicon Valley where a few years ago a converted garage sold for about \$1 million and be satisfied that the small three-bedroom house down the street from the converted garage did not see an unconscionable increase in its property taxes.

He might remember reading about the elderly couple that was written about in the *Newhall Signal* newspaper about a decade before Proposition 13 passed. The couple lived in a small shack, which was assessed at the land's highest and best use—a motel could be built on the property. The couples' taxes were \$1,800 a year; their total income was \$1,900 a year. And he would smile, puff on a cigar, and know people like that could not be victims of an unsympathetic tax system again.

And what would he say about the criticism Prop. 13 receives? He'd wave a fist and call it hogwash, or something more colorful.

I will not be so dismissive here. I will discuss Proposition 13 thirty years later. I will touch upon the criticisms of Proposition 13; and also what Prop. 13 has accomplished for the people of California. And if Howard has a word or two to offer along the way, I'll be sure to let him speak.

Proposition 13 has suffered many attacks over the years. In Ancient Egypt plagues came from the hand of God. In California all problems seem to be blamed on Proposition 13.

Prop. 13 has been blamed for poor government services, missing shot puts, (when the grass is too high because it is not cut often enough), potholes, fee hikes, even a murdered child. The writer Richard Reeves argued in a *Money* magazine piece that 12-year-old Polly Klaas may have been rescued by the police before she was killed if officers had compatible police radios surely denied them by the Prop. 13 tax cuts.

When the Loma Prieta earthquake collapsed freeways in the San Francisco Bay Area in 1989, Paul Conrad's *Los Angeles Times* editorial cartoon showed a car crushed by a freeway and the license plate on the car read: Prop. 13.

When O. J. Simpson was found not guilty in his criminal trial, a column in the *New Republic* said it was Howard Jarvis and Prop. 13's fault. Because of the tax cut there was not enough money to hire competent police officers and coroner officials. As they say in advertisements . . . that's just a partial list.

Once again in the year 2008 we have a budget crisis in California. And once again hungry eyes turn to Proposition 13 and wonder if only . . . if only we could blow it up; or trim it back; or give it a face lift; or get away from the Neanderthal instincts of its supporters. . . . California will be rescued.

In other words, if taxes could be easily raised spending would be increased and problems would be solved. It is curious that Proposition 13 is blamed for budget deficits but is never given credit when there are budget surpluses and healthy economic growth that has occurred over the years since the initiative passed.

In the conclusion of Bill Stall's May 29, 2008 *Los Angeles Times* column on Prop. 13, he called for changes in the measure so that taxes might be raised. He concluded: "But make no mistake, it is Proposition 13—because of its real impact on state coffers and its iconic role as a tax revolt symbol—whose reform is the crucial first step in assuring California's future."

Its iconic role as a tax revolt symbol—What he means is to increase taxes in California the symbol of tax resistance must be torn down. He's right. Proposition 13 is legendary. It was more than a simple tax revolt. Proposition 13 as a symbol contains elements of the myths and legends with which we grew up.

Consider the story of Robin Hood. Think beyond the simple notion that he took from the rich and gave to the poor. Look deeper. He took from those who became rich through outrageous taxation. The villains in the story were Prince John, the head of the national government and the sheriff, tax collector for the local government.

If you are not inclined toward romantic tales, then consider Proposition 13 as a social movement, providing for the taxpayer security in their housing. At the same time Prop. 13 provided stability to neighborhoods and a sense of power in the people that they do, indeed, control their government.

The symbolism of Prop. 13 is powerful. And that is why some need to tear it down.

Three decades later, both as a taxpayers' shield and as a symbol of power over government, Proposition 13 still enjoys overwhelming support from the public. Three different voter surveys issued at the time of the 30th anniversary conducted by Mark DiCamillo of the Field Poll, Mark Baldassre at Public Policy Institute of California, and Arnold Steinberg of Arnold Steinberg and Associates all agreed that Proposition 13's popularity maintained the same two-to-one margin of approval the measure passed by in 1978.

Let us consider briefly some familiar policy issues raised about Prop. 13:

- The two-thirds vote requirement to raise taxes
- Taxing commercial property and residential property the same
- Shifting power to the state government
- The fiscalization of land use (in which cities look to bring in sales tax producing

- retail establishments and, it is alleged, forego good planning for the sake of sales tax revenue)
- Schools
 - Tax equality

The Two-Thirds Vote

Proposition 13 changed the law requiring a two-thirds vote for the legislature to raise state taxes and a two-thirds vote of the people to raise local taxes for special purposes. Proposition 13 is not responsible for the two-thirds vote requirement to pass the state budget or to pass local general obligation bonds. Both of those requirements predate Prop.13 by many years.

The two-thirds vote for local general obligation bonds was established in the 1879 constitutional convention. The two-thirds vote on the budget was first established in 1933 for budgets that exceeded 5% growth over the previous year's budget. The two-thirds standard was applied to all state budgets after the constitutional revision of 1962.

However, these two issues, bonds and budgets, make the point that a supermajority vote is often required in certain instances when the people believe that hurdle is appropriate. The two-thirds vote can be found many times in the United States Constitution. Juries require a supermajority vote, in some cases a unanimous vote, to convict. Simply stated the two-thirds vote is to bring a sense of overall agreement to important decisions. In taking property in the form of taxation it is appropriate to cross this hurdle.

Split Roll Property Tax

The question was asked of Howard Jarvis why he didn't write Proposition 13 to protect only homeowners. He was accused of writing Proposition 13 to benefit business. Business organizations actually opposed Proposition 13 when it was on the ballot and contributed money for its defeat.

Jarvis did not believe Proposition 13 was a special favor for business. He stated that for 50 years the state constitution had the same tax rate and requirements for business properties and residential properties and if business got a break under Proposition 13 those properties had been getting the same break for 50 years.

Splitting the property tax roll to assess or tax business property differently from residential property will have negative effects both politically and economically for the business community.

Once business property is on a different footing than residential property business is susceptible to future tax increases, which will be hard to fend off. As the old saying goes, "Business doesn't vote." Business property tax could be subject to ambitious politicians or special interest groups looking for more revenue.

Once the roll is split it can be spliced many different ways as has happened in other states, i.e., commercial plants, store fronts, even boat docks. Interest groups will constantly lobby for favored status under such a system.

Business organizations actually use Proposition 13 as a selling tool to businesses wanting to relocate in California. Why? Under Proposition 13 they argue that a business can plan better, knowing what property taxes will be each year and that the business will no longer be subject to the uncertainty of subjective tax bills from an assessor.

Finally, taxing business will send a ripple effect through the economy. The tax will be passed on in the form of higher rents to small business, and increased prices on goods and services.

Power to Sacramento

Has power shifted to Sacramento under Proposition 13? What would Howard Jarvis say? He defended the phrase in Proposition 13, which states that the tax revenue should be "apportioned according to law." In his mind that meant dispersing the tax money as it had been dispersed in the past along the same lines. The legislature interpreted the phrase to mean that *we make the laws so we will say how the money is spent*. State government control over the property tax is not foreign to California. The state controlled property taxes in the beginning of statehood. But, the legislature did use the language of Proposition 13 to take more power unto itself and at times direct where property tax revenue would be spent. Some power has shifted to state government. That was not Jarvis's intent.

Fiscalization of Land Use

Governments use a divining rod to find more revenue. If their way is blocked in one direction, they will dig somewhere else. With property taxes limited by Proposition 13, cities certainly have approved the building of retail establishments to secure more sales tax revenue, a situation that has been termed "the fiscalization of land use." Some Prop.13 critics have charged that this desire to chase sales tax producing outlets has skewered appropriate land-use decisions. But businesses do not build outlets to satisfy a need to build. Companies probably do more polling than most politicians to determine if a specific area is a good market for their goods

and services. And that means that most citizens in the area probably are pleased that these outlets are located near them. If Proposition 13 were to disappear there would still be a need and a call for the retail outlets.

While land-use decisions may be made differently if Proposition 13 did not exist, the remedy for this situation seems to be to raise property taxes, and voters have clearly expressed their views on that idea.

Schools

There is more money in the school system today than prior to Proposition 13. There are certainly more students in the schools than there were in 1978, the year Proposition 13 passed. And yet, for each student, in real per capita dollars, more money is spent on the students. A study by the Center for Government Analysis pegged that figure at 30% more per pupil.

So where is the money going and how is it being spent? Study after study shows education is not just about money. Too much administration, union rigidity, parental involvement or lack thereof are all issues. And the problem is not just in California. Consider the following paragraph. It was written 17 years ago, so keep that in mind when you read the dollar figure of \$12,000 per pupil—that was a lot of money 17 years ago, even more than is spent on California students today, but the complaint is familiar.

In our town, the school system is spending just over \$12,000 a pupil. That should make it roughly the elementary equivalent of Stanford. Instead, people who are able to send their children to private and parochial schools because they believe the public schools are substandard. This makes us like many other urban residents in the country. The cupboard is bare, and taxpayers everywhere are looking around to see where the money has gone. And the answer, in so many cases, is that it has been badly spent.

So wrote Anna Quidlen, in the *New York Times* in 1991 commenting on schools in New York City where there is no Proposition 13.

There are many problems with public education in this country that do not revolve around money.

Tax Equality

Property tax was not and is not a fee-for-service. It is a general fund tax. Characterizing it as anything different is wrong. Prior to Proposition 13 when garbage

was picked up in front of the expensive house on top of the hill, the cost of that pick up was the same as the house at the bottom of the hill. But the property tax system in place at the time required the higher assessed house to pay more yet the service was the same.

The question of tax equality under Proposition 13 occurs when similar homes in the same neighborhood pay different tax amounts depending on the assessed value determined when the homes were purchased. The issue of equality of taxation must be measured against the question of certainty for the taxpayer.

All taxpayers are treated equally when they set their property taxes at the sales price under Proposition 13. The perceived inequality comes later when a new buyer comes into the neighborhood and that buyer's taxes are adjusted according to the current assessed value of the property. At least all the taxes in the neighborhood would not increase dramatically because someone decided to buy a house at a high price, a situation that existed before Prop.13.

The United States Supreme Court in the case of *Nordlinger v Hahn* (1992) dismissed the notion that Proposition 13 violated the equality clause of the U.S. Constitution. Justice Harry Blackmun writing for the eight to one majority argued:

First, the state has a legitimate interest in neighborhood preservation, continuity and stability. . . . Second, the State legitimately can conclude that a new owner at the time of acquiring his property does not have the same reliance interest warranting protection against higher taxes as does an existing owner, already saddled with his purchase, does not have the option of deciding not to buy his home if taxes become prohibitively high.

At the Howard Jarvis Taxpayers Association offices people who called to complain about paying more taxes than their neighbor who lived in an identical house stopped calling after a few years. They saw how Prop.13 was working for them keeping their taxes certain despite the turnover of homes in the neighborhood.

An acquisition property tax policy makes taxes predictable and removes the problem of subjective assessments by government officials, while protecting homeowners against prohibitive property tax increases. Taxpayers know that their property taxes will be 1% of the market value, in most cases the purchase price, and in the future would go up no more than 2% a year.

Adam Smith stated in his *Wealth of Nations*: "The certainty of what each individual ought to pay is, in taxation, a matter of so great importance, that a very considerable degree of inequality . . . is not near so great an evil as a very small degree of uncertainty."

Proposition 13 captured Smith's notion of certainty.

Or as a writer in the *Vacaville Reporter* described the situation of side-by-side similar homes paying different tax amounts: Proposition 13 reminded her of her grandmother's quilt. It was made up of different patches but stitched together it kept everybody warm.

Before Proposition 13 passed, the certainty in property taxes belonged to the tax collector. After Proposition 13, the certainty in property taxes belongs to the taxpayer. *That is the revolutionary idea behind Proposition 13.*

Thirty years after the passage of Proposition 13 the debate on its merits still rages. This would not surprise Howard Jarvis. He formed the taxpayer group that now bears his name because he knew Prop. 13 would not stand if it were not protected. He supported continuous advocacy on behalf of the taxpayers. As Howard would say: "A ship can't sail on yesterday's wind."

It's interesting to note that over the past year around the country there was outrage over property taxes in many states. Indiana saw protests and picketing of the governor. The situation in Florida was covered in *Time* magazine. Property tax initiatives were filed in Arizona, Washington, and Nevada . . . but in California there was property tax peace. People were satisfied with the system.

One other thing—the property tax has been the most reliable tax in California, growing steadily year after year. Revenue from property tax does not fluctuate with changes in the economy as does income tax and sales tax revenue. In Los Angeles County, since 1980, property tax revenue has gone up by an average of 7% a year. Even with the housing market crisis of 2008, county officials reported property tax increased 6.9%.

The headline story of the July 9, 2008 *Los Angeles Times* said it all: "Property Tax Funds Rise as Housing Market Falls."

The story indicated that assessors throughout California were reporting rising tax bases and "they credited the 30-year-old law (Proposition 13)—revealing its unexpected role as an economic stabilizer."

Because properties are assessed at their selling price instead of the current market value and subject to limited inflation increases, even when home prices dip most properties continue to pay their current taxes plus an increase due to the inflation factor. Thus even in difficult economic times taxes calculated on a home, unless recently purchased, go up not down. This allows for the tax revenue stabilization cited by the *L. A. Times*.

What would Howard Jarvis say? Given that he had many battles with the *Times* over tax policy, seeing the paper's front page headline story reporting a positive worth of Prop. 13, he might be speechless.

Is Proposition 13 a perfect law? No, there is no perfect law.

Oliver Wendell Holmes said the life of the law is not logic but experience. Proposition 13 resulted from the experience of California taxpayers over many years when the government, instead of offering taxpayers relief from an ever-increasing property tax burden, did nothing.

Proposition 13 did not actually cut off money to government as some have charged. On Proposition 13's 30th anniversary, the *San Diego Union Tribune* editorialized:

From fiscal 1980–81—the year Proposition 13 took effect—through 2005–06, property tax revenue skyrocketed from \$6.4 billion to \$38.3 billion. That is an increase of more than 500 percent. So much for talk that the measure turned off the property tax spigot.

Any claim that the two-thirds requirement to hike state taxes depressed other revenue is also flat wrong. Total state revenue went from \$19 billion in 1980–81 to \$93.5 billion in 2005–06—a jump of nearly 400 percent.

These whopping revenue gains occurred in an era in which the state's population went up by 58 percent and, according to federal data, inflation rose by 131 percent. The upshot: Lawmakers have at least twice as much money—inflation-adjusted money—to spend per Californian as they did when Proposition 13 took effect.

Perhaps, the best summary of Proposition 13's effect may have been expressed in a *Los Angeles Times* editorial on the occasion of Proposition 13's 20th anniversary.

Proposition 13 is 20 years old and it's time to proclaim the tax cutting measure a success. The ballot brainchild of Howard Jarvis and others has been vilified by critics for two decades and blamed for much of what ails California. But at the heart of it, the measure did exactly what Jarvis promised. More important, it fulfilled the demands of California homeowners, many of whom legitimately feared that runaway property taxes would force them from their homes.

And Howard Jarvis would say: "Damn right!"