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It Didn't Start with Proposition 187: One Hundred and Fifty Years of Nativist Legislation in California

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ABOUT THE WEST

It Didn't Start with Proposition 187 *One Hundred and Fifty Years of Nativist Legislation in California*

Glen Gendzel

IF California is known for anything today, it is known for diversity — especially since 1999, when California became the nation's largest "majority minority" state. Immigrants and their children are primarily responsible for California's growing non-white majority. According to the United States Census Bureau, 27 percent of California residents are foreign born — a higher proportion than in any other state and more than double the national average.¹ Unfortunately, though, besides diversity and immigration, California is also known for discomfort with diversity and hostility to immigration — or at least to certain kinds of immigrants. California seems to have acquired this reputation in 1994, when 59 percent of the state's voters approved Proposition 187, a ballot initiative that denied public services such as education and nonemergency medical care to so-called "illegal aliens." Even though Proposition 187 was quickly nullified by courts, it represented a cruel slap at about two million vulnerable people, including hundreds of thousands of children, and it provoked worldwide denunciation of California voters for their hard-hearted inhumanity.² The *New York Times* haughtily scolded "mean-spirited" Californians for embracing such an "indecent proposition." "It is now open season on immigrants or anyone who might look like an immigrant in California," decried the *National Catholic Reporter*. Protestors in Mexico City ransacked a McDonald's restaurant, spray-painting walls with the slogans "No to 187!" and "Solidarity with the immigrants!"³

Criticism of California nativism continued in the 1990s as the state's voters went on to approve Proposition 209, which banned affirmative action in the public sector, and Proposition 227, which banned bilingual education in public schools.⁴ Like Proposition 187, Propositions 209 and 227 were seen as thinly veiled attempts by native-born whites to punish non-white immigrants for having gained statewide demographic

ascendancy. Taken together, these three ballot initiatives convinced many outside observers that the California electorate had turned so xenophobic, if not downright racist, that the state now qualified as "the Mississippi of the 1990s."⁵ Yet few such critics seemed to realize that California's penchant for nativist legislation was not of recent origin. This article will survey California's long history of nativist legislation in order to demonstrate that the nation's most immigrant-filled state actually passed a great many anti-immigrant laws before the 1990s. Props. 187, 209, and 227 were not just a spasmodic backlash against recent demographic trends; rather, they were the culmination of 150 years of nativist politics in California. From the earliest days of statehood, anti-immigrant laws directed against Latin Americans and Asian Americans have enjoyed broad support from the California electorate — which has always been, and still remains, predominantly white and native-born.⁶

The story begins in 1848, when the United States took California from Mexico in war just as gold was discovered in the newly conquered province. Within five years, the Gold Rush attracted 250,000 people to California from around the world. Euro-Americans born in the United States quickly predominated among the diverse ranks of gold-seekers. One foreign-born miner bitterly recalled that "the Yankees regarded every man but a native American as an interloper, who had no right to come to California to pick up the gold."⁷ General Persifor F. Smith of the U.S. Army, sent to assume command in California, declared in 1849 "I shall consider every one, not a citizen of the United States, who enters on public land and digs for gold, as a trespasser, and shall enforce that view . . . in favor of American citizens."⁸ A year later, Thomas Green, an ex-slaveowner from Texas and a member of California's first state legislature, complained that the young state faced "an emigration overwhelming in number and dangerous in character," including "the worst population of the

Mexican and South American States.” He added with evident regret: “We cannot, under the United States Constitution, prevent the migration hither of these people.” Still, Green hoped that at least California could make immigrants “pay some little tribute,” the cost of which might persuade them to leave.⁹ Accordingly, one of the California legislature’s first enactments was the Foreign Miners’ Tax of 1850. This law required California miners who were not U.S. citizens to pay a license tax of \$20 per month at a time when \$20 was equivalent to two weeks’ wages for an average laborer.¹⁰

The Foreign Miners’ Tax frankly targeted Mexicans: they were the largest group of foreign miners in 1850 and the most skilled thanks to their experience in the gold and silver mines of Sonora. Most of the Mexican miners were so insulted by the Foreign Miners’ Tax that they refused to pay.¹¹ In response, white American miners put down their picks and pans to take up knives and guns. Hubert Howe Bancroft, a pioneer historian of California and a former miner himself, wrote that with the passage of the Foreign Miners’ Tax, “the community was split in two, and arrayed one part against the other with bowie-knife and revolver.”¹² Armed, drunken mobs of white Americans accompanied state tax collectors as they visited Mexican mining camps. The mobs cried “California for the Americans” and demanded that the Mexicans pay up or get out. No such mobs tried to enforce the Foreign Miners’ Tax against European or Australian miners, whose equally “foreign” presence was somehow less objectionable. The mobs did, however, demand payments from Mexican miners who were not foreigners at all, but *Californios* born and raised in Mexican California before the American conquest. Now these men found themselves labeled “foreign” by others who had only just arrived.¹³

Faced with legal discrimination and mob violence, about 10,000 Mexicans and other Latin Americans left California in 1850 to escape the Foreign Miners’ Tax. The *Stockton Times* gleefully reported that “the foreign population, we mean the Mexicans, Sonorians, and Chilians are on the march home.” Evidently the law had served its purpose, because the state legislature promptly repealed the Foreign Miners’ Tax in 1851.¹⁴ But it was reenacted a year later after large numbers of Chinese miners began to arrive in California. Hoping to avoid conflict with whites, the Chinese mined marginal claims that no one else wanted, so their presence in the mines, for the time being, was tolerated — but they still had to pay the tax. This time the Foreign Miners’ Tax was set at only \$4 a month in hopes that the Chinese would actually pay it and thereby generate some badly needed revenue for the fledgling state government. And apparently they did pay: for the next 18 years, the Foreign Miners’ Tax supplied between one-quarter and one-half of all state revenues — collected almost entirely from Chinese immigrants.¹⁵ Not content with nativist legislation directed at the Chinese alone, early

sessions of the California legislature also banned “barbarous or noisy amusements” such as bull fights and cock fights that were popular with Mexicans, and passed a law that singled out “persons who are commonly known as ‘Greasers’ or [who] are the issue of Spanish or Indian blood.” This so-called “Greaser Law” of 1855, which enshrined a hateful racist epithet in the official language of the state criminal code, allowed for the jailing of “vagrants,” an elastic legal category that usually meant any Mexican caught in town without a white employer to vouch for him.¹⁶

The intent behind California’s nativist legislation was always more than simply to tax or harass foreigners; these measures were supposed to purge certain disfavored immigrants from the state or at least to deter any more from coming. One law passed in 1855 was frankly entitled “An Act to Discourage the Immigration to this State of Persons Who Cannot Become Citizens Thereof,” which meant the Chinese, who were ineligible for citizenship under federal naturalization law at the time. This act slapped a \$50 landing tax on ship captains for each Chinese passenger brought to California. The landing tax was not levied on passengers of any other nationality, but in response to white American demands for protection against the Asian “yellow peril,” the legislature tried to discourage Chinese immigration by raising the cost of their delivery. Predictably, however, shipping lines simply raised passenger fares from China, and as a result, Chinese immigrants, who were generally destitute, had to borrow even more money to pay the higher price of passage — which meant they had to stay in California longer, working to pay off the money they had originally borrowed to immigrate. Thus the Landing Tax of 1855, which was intended to reduce the Chinese population in California, had exactly the opposite effect by making it more difficult for the Chinese to return home, as most of them wished to do eventually.¹⁷ The Foreign Miners’ Tax, like the Landing Tax, had the same ironical effect: it siphoned off so much of a typical Chinese miner’s income that additional years in California were required to save enough money to leave. Many Chinese, stranded by indebtedness or by their reluctance to go home empty-handed, never did leave California.¹⁸ It would not be the first time that nativist legislation in California would have unintended consequences.

After the Gold Rush, hatred of the Chinese kept rising in California. White residents of the state tended to view Chinese immigrants as uncivilized, unclean, unassimilable, un-Christian barbarians.¹⁹ Personal assaults on Chinese were commonplace but went largely unprosecuted because, under the state Supreme Court decision *People v. Hall* (1854), no white defendant could be convicted of a crime solely on the testimony of a Chinese witness. At the same time, California communities harassed Chinese residents by requiring them to buy expensive permits or licenses just to earn a living.

Local ordinances also banned common Chinese practices such as the sharing of small rooms, the carrying of pole-baskets, and the wearing of pig-tails.²⁰ A San Francisco ordinance aimed at Chinese laundries resulted in a landmark U.S. Supreme Court decision, *Yick Wo v. Hopkins* (1886), which clarified the Fourteenth Amendment's equal protection clause. The court also used the opportunity to chastise Californians for their unconstitutional mistreatment of Chinese immigrants whose rights were federally guaranteed.²¹

It remained an endless source of frustration to many Californians that only Congress had the power to regulate Chinese immigration. In the absence of federal action against the Chinese, the state increasingly resorted to nativist legislation. In 1858, the legislature asserted California's right to "exclude any class of foreigners she may deem obnoxious" and even to "expel them entirely from her borders." A committee of the legislature explained that the Chinese were intolerable because their "habits, manners, and appearance, are disgusting in the extreme" and their collective presence constituted "a visitation worse than the locusts of Egypt." The committee added that "California is peculiarly the country for the white man, and . . . we should exclude the inferior races."²² Four years later, the legislature passed a law "to Discourage the Immigration of the Chinese into the State of California" by levying a head tax of \$2.50 per month on every Chinese resident. The state supreme court quickly struck it down while rebuking legislators for their "special and extreme hostility to the Chinese."²³ Undaunted, the legislature tried in 1874 to deny entry into the state by any "lewd or debauched woman" from abroad. The ban was aimed at Chinese women, who were widely assumed to be prostitutes — but the U.S. Supreme Court overturned this law in *Chy Lung v. Freeman* (1875), while reminding the California legislature that "the passage of laws which concern the admission of citizens and subjects of foreign nations to our shores belongs to Congress, and not to the States."²⁴

When news of the *Chy Lung* decision reached San Francisco, mass anti-Chinese demonstrations filled the streets. Now the state legislature beseeched Congress to "relieve us of this class of people and prevent their future immigration to our shores."²⁵ All was not lost for California nativists, however: Congress promptly passed the Page Law, sponsored by a California congressman. This law directed U.S. immigration officials to inspect all Chinese women presenting themselves for admission to the United States in order to determine if the women were being imported for immoral purposes. It was essentially the same invalidated law that California had passed on the state level, now reenacted on the federal level where it was constitutionally unassailable. Apparently the humiliating inspection procedures adopted pursuant to the Page Law dissuaded many Chinese women from immigrating at all: their numbers fell by

68% between 1876 and 1882.²⁶ Meanwhile, the California legislature continued passing more nativist laws such as a ban on the exhumation and removal of human remains — a common practice for Chinese immigrants who wished to be buried in China — and a ban on fishing in California waters by "aliens." Predictably, courts struck down these measures on the usual Fourteenth Amendment grounds. One federal judge even ridiculed California lawmakers for "the crudities, not to say absurdities, into which . . . legislative bodies are liable to be betrayed by their anxiety and efforts to accomplish, by indirection and circumlocution, an unconstitutional purpose."²⁷

California employers certainly appreciated Chinese workers, but white laborers blamed the Chinese for driving down wages and living standards in the state. Economic competition fused with nativism and racism as reasons for many Californians to demand legislative relief from Chinese immigration. In the 1870s depression, when unemployment soared upwards and wages fell below subsistence levels, white workers turned more viciously anti-Chinese than ever. San Francisco hosted mass rallies demanding the expulsion of Chinese immigrants from the state; dozens of smaller California communities drove out their Chinese residents by boycott, force, or threat of force.²⁸ In 1879, California held a nonbinding referendum on Chinese exclusion that passed by the rather lopsided vote of 154,638 to 883. In other words, 99.4 percent of the all-white California electorate voted to exclude all Chinese immigrants from the state forever. It was a remarkably unanimous show of nativist hostility toward a single immigrant group. Hatred of Chinese immigrants — the "indispensable enemy" — had become the one issue upon which white working-class Californians of all nationalities, religions, ethnicities, and political parties could agree.²⁹

Finally, after more riots and agitation, California adopted a new state constitution in 1879. The convention that drew up the document appealed to Congress for "relief from Chinese immigration, an evil of such magnitude . . . as to excite in the minds of our whole people the most serious dissatisfaction and alarm." The delegates complained that politicians in Washington did not seem to understand that California faced "an Oriental invasion . . . which threatens to supplant Anglo-Saxon civilization on this Coast." By a vote of 61 to 60, the convention narrowly rejected a proposed provision of the new constitution that would have permanently barred "aliens" (i.e., the Chinese) from California.³⁰ Still, the final document as approved did contain Article XIX, which instructed the legislature to protect California "from the burdens and evils arising from the presence of aliens." Article XIX authorized California cities and towns to evict or segregate Chinese residents, and it banned the employment of Chinese by California corporations or by government agencies —

except as convict labor, which was specifically allowed. Article XIX concluded with a ringing declaration that the Chinese were “dangerous to the well-being of the State” and called on legislators to find some legal means of expelling them.³¹

California voters approved the new constitution in 1879, but federal courts quickly invalidated Article XIX, the anti-Chinese portion of the document, so it never took effect.³² Nonetheless, Article XIX enshrined viciously nativist language in what is still California’s fundamental law. And despite repeated setbacks in the courtroom, California nativists achieved their utmost desideratum three years later anyway, when Congress bowed to California’s insistent demands and passed the Chinese Exclusion Act of 1882. This law barred entry into the United States by any more “laborers” from China, a ban that applied to practically all Chinese immigrants.³³ It was the first and only time in American history that a nation was singled out by law and forbidden to send immigrants to the United States. Historians point to the Chinese Exclusion Act as the first step toward immigration restriction on the federal level; yet it passed Congress only because white California residents demanded it and because national politicians preferred to respect the wishes of those who could vote rather than those who could not even become citizens.³⁴

Within thirty years of the Chinese Exclusion Act, the Chinese population of California was cut in half. But the state’s nativists were still not satisfied because after 1900, rising immigration from Japan kindled new fears of a “yellow peril.” Japanese immigrants and their children represented just two percent of California’s population by 1920, but like the Chinese before them, the Japanese were perceived as a sinister threat to wage levels, living standards, social order, and racial integrity.³⁵ Ironically, if the Chinese were hated for their refusal to assimilate, the Japanese were hated for the opposite reason: they seemed to assimilate too well. Japanese immigrants started farms, businesses, and families in California; they learned English and adopted American ways, even converting to Christianity in many cases.³⁶ Yet for all their efforts at assimilation, the Japanese, no less than the Chinese, were also treated as permanent outsiders whose very presence was deemed a threat. In 1900, Mayor James Phelan of San Francisco warned a labor audience that the “existence of our Republic” depended on restricting Japanese immigration. A year later, Governor Henry Gage called for broadening the Chinese Exclusion Act to ban the Japanese as well. In 1905, the state legislature unanimously approved a resolution calling Japanese immigrants “a serious menace” to California and demanding that Congress take action to bar their entry.³⁷ A year later, the San Francisco Board of Supervisors tried to segregate Japanese school children — but the resulting uproar in Japan triggered a diplomatic crisis that forced President Theodore Roosevelt to negotiate restrictions on Japan-

ese immigration, as most Californians had wanted all along.³⁸

California nativists applauded Roosevelt’s action but they still demanded legislation against Japanese immigrants already in the state. Finally, after rising demands for removal of the Japanese, the California legislature passed the Alien Land Law in 1913. This law banned the ownership of land for agricultural purposes by “aliens ineligible to citizenship,” meaning exclusively Asian immigrants. By this time Japanese were the only Asians farming in appreciable numbers in California so the law was aimed solely at them.³⁹ Attorney General Ulysses Webb, author of the Alien Land Law, promised that his measure would reduce Japanese immigration. As he said, the Alien Land Law “seeks to limit their presence [i.e., the Japanese] by curtailing their privileges which they may enjoy here; for they will not come in large numbers and long abide with us if they may not acquire land.”⁴⁰ Undaunted, thousands of Japanese farmers in California circumvented the Alien Land Law by signing 99-year leases for agricultural land, by forming corporations to operate their farms, or by purchasing land in the names of their U.S.-born children.⁴¹ These loopholes were soon closed by strict amendments to the law in 1920. The amendments passed in a ballot initiative which carried statewide by a three-to-one margin.⁴² In the same election, 82 percent of California voters also approved a tax on non-citizen residents, which would necessarily apply to Asian immigrants. The official ballot argument in favor of this law declared: “Aliens as a whole do not contribute anything to our country.” In 1921, the state supreme court struck down the Alien Poll Tax for violating foreign treaties and, as usual, the Fourteenth Amendment to the U.S. Constitution.⁴³ Still, the amended Alien Land Law forced thousands of productive Japanese farmers to seek alternate livelihoods. Ironically, if California voters expected the Alien Land Law to rid the state of Japanese, it only forced Japanese immigrants to abandon agriculture and to compete more directly with white workers and white-owned businesses in towns and cities.⁴⁴

Even after Chinese and Japanese immigration were severely curtailed, California’s congressional delegation continued to support restrictive immigration laws on the federal level. California congressmen helped to pass the Immigration Act of 1917, which outlawed any further immigration from the “Asiatic Barred Zone” that stretched from Vietnam to Turkey. California congressmen also supported the National Origins Act of 1924, which allowed some immigration from Europe but none at all from Asia.⁴⁵ Irrespective of such politically popular bans, however, California employers still needed cheap labor, especially in agribusiness, so when Asian immigration dwindled away, California growers tapped new sources of poor immigrants willing to work for low wages. In the 1920s, Mexicans and Filipinos began to arrive in large numbers to work on

California's sprawling corporate mega-farms.⁴⁶ Immigrants from Mexico and the Philippines could still enter the United States at this time without restriction. But California's Attorney General Webb ruled in 1926 that Filipinos, who were U.S. nationals under federal law, were officially Asians under state law, and therefore even though California could not exclude them, Filipinos were forbidden to marry whites in the state. California's law against interracial marriage, originally passed in 1850, had been amended in 1880 to include Chinese and again in 1905 to include Japanese. When Filipinos filed lawsuits to overturn the attorney general's 1926 ruling, the legislature further amended the law in 1933 to apply specifically to them as well.⁴⁷

When the Great Depression arrived in the 1930s, hard times raised new complaints in California that immigrants were taking away "American" jobs. Congress obligingly responded by passing the Tydings-McDuffie Act of 1934, which banned any further immigration from the Philippines.⁴⁸ At the same time, in the early 1930s, Los Angeles and other California communities "repatriated" at least 100,000 Mexican immigrants and their U.S.-born children to Mexico at public expense. Estimates of the number of people involved run as high as 400,000. Some went voluntarily to visit friends and family, or to avoid federal deportation — but others did not. Unknown numbers of forcibly repatriated Mexicans were swept off the streets in police roundups and shipped south of the border without a hearing or even a chance to bid farewell to their families. Some of them were U.S. citizens of Mexican descent, including thousands of children. It seems that local authorities were not too particular about the nativity or citizenship of brown-skinned Hispanics who got rounded up and packed onto express trains headed south of the border. These repatriation drives of the early 1930s caused a sharp demographic turnover in communities such as Los Angeles, which lost one third of its Mexican-born residents.⁴⁹ A form of ethnic cleansing performed under civic auspices, repatriation was supposed to reduce the "relief" (i.e., welfare) rolls and save California municipalities from bankruptcy — even though the vast majority of relief recipients at the time were white. (Similar illogic would arise in the Proposition 187 campaign over half a century later, when nativism again hid behind cost-cutting claims.) In 2005, California officially apologized for "the unconstitutional removal and coerced emigration of United States citizens and legal residents of Mexican descent" over seventy years earlier — but Governor Arnold Schwarzenegger vetoed plans for compensation.⁵⁰

When Japan attacked Pearl Harbor in December 1941, California politicians joined U.S. Army commanders in demanding the forced removal of Japanese American residents from the West Coast. The rationale was that all Japanese Americans were potential enemy spies and saboteurs who might assist a Japanese inva-

sion — even though no such invasion was ever planned, expected, or possible, and even though no evidence of Japanese American disloyalty has ever been found.⁵¹ General John DeWitt of the U.S. Army, in charge of defending the West Coast, simplified the issue this way: "The Japanese race is an enemy race." He saw no meaningful difference between Americans of Japanese descent and the enemy population of Japan. Later DeWitt elaborated: "There is no way to determine their loyalty. . . . A Jap is a Jap." Hence Japanese American evacuation from the West Coast was essential to U.S. national security, according to DeWitt.⁵² Reluctant to oppose military commanders in wartime, and eager to conciliate California politicians, President Franklin Roosevelt signed Executive Order 9066 in February 1942.⁵³ As a result, 120,000 Americans of Japanese descent — two-thirds of them U.S. citizens, three-quarters of them from California — were forced to abandon their homes and to spend the next three years surrounded by barbed wire and armed guards in hastily erected prison camps scattered across remote western deserts. The personal anguish, family disruption, and property losses suffered by internees were incalculable; so, too, was the damage to American civil liberties and constitutional rights.⁵⁴ And yet California politicians, with near-unanimous support from the local press and public opinion, wholeheartedly approved of Japanese internment. Indeed, some California communities even tried to prevent Japanese American residents from returning after the war.⁵⁵

Historically, the most important safeguard of immigrant rights against nativist legislation in California has been the United States government. The pattern was set early on when Congress passed the Civil Rights Act of 1870, which nullified the Foreign Miners' Tax and other anti-Chinese laws in California.⁵⁶ Senator William Stewart of Nevada, speaking in support of the Civil Rights Act, believed that the federal government was morally and legally obligated to protect Chinese immigrants from harassment such as they were experiencing in California. "We are inviting to our shores, or allowing them to come, Asiatics," said Senator Stewart. "For twenty years every obligation of humanity, of justice, and of common decency toward these people has been violated . . . in California." He insisted that Congress should "see that those people are protected . . . notwithstanding that they are aliens."⁵⁷ Federal legislative and judicial interventions nullified many of California's anti-immigrant laws — yet California lawmakers persisted in passing nativist legislation of dubious constitutionality anyway. The *Alta California* newspaper exposed the sheer opportunism behind much nativist legislation when it observed in 1880 that local politicians regularly "sacrifice themselves to . . . anti-Chinese legislation whether constitutional or unconstitutional" whenever the vain effort promised to win votes at election time.⁵⁸

California's nativist legislation did not always attract national attention on par with Proposition 187. For example, in the 1890s, when southern states began limiting African American voting rights with literacy tests and other legal devices, California adopted a literacy test for its voters, too. California's law was aimed not at African Americans but at immigrants. Assemblyman A. J. Bledsoe, author of California's literacy test law, promised in 1891 that it would "protect the purity of the ballot-box from the corrupting influences of the disturbing elements . . . from abroad." This expressly nativist measure remained in force until 1970, when courts finally ruled that it violated the Voting Rights Act of 1965.⁵⁹ California counties with substantial numbers of immigrant voters were then ordered to use bilingual ballots that drew fresh nativist ire. In 1984, 71 percent of California voters approved Proposition 38, which called for "English-only" ballots in state elections despite the limited English proficiency of many immigrant voters.⁶⁰ Given that California elections feature complex ballot measures, many voters would be effectively disfranchised if they could not understand voting materials. Yet polls showed that 61 percent of California voters believed even U.S. citizens should not be allowed to vote if they could not read English.⁶¹ In 1986, 73 percent of California voters approved English as the state's "official language" with Proposition 63. The *New York Times* perceived that this law "smacked of a mean-spirited, nativist irritation over the influx of Mexicans and Asians."⁶² Taken together, California's "English-only" and "official English" initiatives of the 1980s showed that most California voters wanted to restrict immigrant participation in democracy. The result, however, was a fresh round of lawsuits forcing California to provide the language assistance necessary for all eligible voters to exercise their federally guaranteed voting rights.⁶³

In addition to nativist legislation, California has also consistently refused to pass laws that would help certain resident immigrants adjust to American life. The result has been still more federal judicial interventions aimed at California's failure to provide public services for segments of its multicultural population in defiance of the Civil Rights Act of 1964, which guarantees equal access to government programs regardless of national origin. For example, the landmark U.S. Supreme Court decision *Lau v. Nichols* (1974) arose from a lawsuit by Chinese American parents of schoolchildren in San Francisco. The ruling required school districts nationwide to provide linguistically appropriate accommodation for students with limited English proficiency, usually from immigrant families. Otherwise, as the court saw fit to remind California, "students who do not understand English are effectively foreclosed from any meaningful education."⁶⁴ Four years later, in the name of cutting taxes, California voters overwhelmingly approved Proposition 13, which gutted the state's public

schools and other social services. For this reason, even though Proposition 187 in 1994 failed to remove the children of undocumented immigrants from California's public schools, those schools were already so woefully underfunded that most students, regardless of nativity, received inadequate education anyway. It is hard to escape the conclusion that California's predominantly native-born electorate, in its zeal for "tax cuts," does not wish to extend any aid, comfort, support, or encouragement to certain disfavored immigrants — and especially not to their children.⁶⁵

From this brief historical inventory, it should be clear that nativist legislation in California did not begin with Proposition 187, nor with the subsequent flurry of heavily publicized ballot initiatives that gave the state an unsavory reputation for intolerance. For over 150 years, California has enacted discriminatory laws against immigrants on the state level, demanded that Congress pass such laws on the federal level, pressured presidents to take discriminatory action against immigrants, and refused to provide equal public services for immigrants whenever possible. Of course, many other states also have shameful records of xenophobia, but California probably ranks foremost in the passage of overtly nativist legislation. Californians and other Americans should know that the Golden State has a not-so-golden history of hostility toward immigrants, more of whom live there than in any other state. As Peter Schrag, longtime columnist for the *Sacramento Bee*, writes, "the way California, with its unprecedented ethnic diversity, now manages . . . the way immigrants assimilate, is almost certain to be a crucial test for the nation," because "what California is, America is likely to become."⁶⁶ Today's Californians must understand their state's history of intolerance if they hope to do better for themselves and the nation.

NOTES

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2. Elizabeth Kadetsky, "Bashing Illegals in California," *The Nation* 259 (October 17, 1994): 416, 418, 420-422; Paulina Yoshihashi and Sarah Lubman, "Passage of Proposition 187 Sets Up Bitter Social Battle," *Wall Street Journal*, November 10, 1994; Jim Impoco and Mike Tharp, "California Tries to Give Back the Tired and the Poor," *U.S. News and World Report*, November 21, 1994; Edward McGlynn Gaffney, Jr., "Immigrant Bashing," *Christian Century* 112 (March 1, 1995): 228-229. For scholarly treatments see R. Michael Alvarez and Tara L. Butterfield, "The Resurgence of Nativism in California? The Case of Proposition 187 and Illegal Immigration," *Social Science Quarterly* 81 (2000): 167-179; Elliot R. Barkan, "Return of the Nativists? California Public Opinion and Immigration in the 1980s and 1990s," *Social Science History* 27 (Summer 2003): 229-283; and Kevin R. Johnson, "An Essay on Immigration Politics, Popular Democracy, and California's Proposition 187: The Political Relevance and Legal Irrelevance of Race," *Washington Law Review* 70 (July 1995): 629-673.
3. "Indecent Proposition in California," *New York Times*, October 25, 1994; Demetria Martinez, "Hatred Rumbles Along New Fault

- Line Called Proposition 187," *National Catholic Reporter* 31 (February 10, 1995): 18; "Protestors in Mexico City Ransack a McDonald's," *New York Times*, November 9, 1994. For an extended critique see Dale Maharidge, *The Coming White Minority: California's Eruptions and the Nation's Future* (New York: Times Books, 1996).
4. Peter Schrag, "Son of 187," *New Republic* 212 (January 30, 1995): 16, 18-19; Gregory Rodriguez, "English Lesson in California," *The Nation* 266 (April 20, 1998): 15-16, 18-19; Daniel B. Wood, "California's Latest Revolt: Affirmative Action Laws," *Christian Science Monitor*, February 8, 1995. These campaigns in California, and the negative reaction they provoked outside the state, are ably narrated in Kevin Starr, *Coast of Dreams: California on the Edge, 1990-2003* (New York: Alfred A. Knopf, 2004), 181-222.
 5. George Lipsitz, *The Possessive Investment in Whiteness: How White People Benefit from Identity Politics*, rev. ed. (Philadelphia: Temple University Press, 2006), 212-236; Otto Santa Ana, *Brown Tide Rising: Metaphors of Latinos in Contemporary American Public Discourse* (Austin: University of Texas Press, 2002), 65-155; Adalberto Aguirre, Jr., "Propositions 187 and 227: A Nativist Response to Mexicans," in Charles F. Hohm and James A. Glynn, eds., *California's Social Problems*, 2nd ed. (Thousand Oaks, CA: Pine Forge Press, 2002), 303-324; Roberto Lovato, "Fear of a Brown Planet," 278 *The Nation* (June 28, 2004): 17-21. On the danger that California-style direct democracy poses for minority rights in general, see Barbara S. Gamble, "Putting Civil Rights to a Popular Vote," *American Journal of Political Science* 41 (January 1997): 245-269; and Kevin R. Johnson, "A Handicapped, Not 'Sleeping,' Giant: The Devastating Impact of the Initiative Process on Latina/o and Immigrant Communities," *California Law Review* 96 (October 2008): 1259-1297.
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