



I Couldn't Recall

By M. Dane Waters
September 2003

When talk began about the possibility of a recall petition being circulated in California I couldn't recall the last time that a sitting Governor was actually recalled – so I had to pull out the history books. It took me a while but I finally found the answer. If California Governor Gray Davis is actually recalled on October 7, 2003 he will join a very exclusive club – only one other Governor has ever faced the voters in a recall election and lost. In 1921 North Dakota Governor Lynn J. Frazier faced the wrath of the voters and was sent packing. However, the wrath of the voters didn't last too long because he subsequently became one of North Dakota's U.S. Senators.

Governor Frazier's sins while in office which lead to his recall were simply being in the wrong place at the wrong time. According to a recent article from the Associated Press, "he was ousted as the economy faltered and his Nonpartisan League party's socialist policies fell into disfavor. The voters were exercising a power they had attained just a year earlier. 'It was a symptom of the whole time of discontent because we were going into a time of lower agriculture prices; the wheat market plummeted; then we had a lot of banks that were starting to fail,' said Marilyn Snyder, curator of education at the State Historical Society of North Dakota."

Recall is a procedure that is available in 17 states, the District of Columbia, Guam and the Virgin Islands. Additionally, according to the National Civic League, "60.9% of U.S. cities have recall provisions, exceeding the percentages for initiative (57.8%) and popular referendum (46.7%). In the five years starting January 1996 and ending 2001, recall initiatives were filed against the mayor in 4.1% of U.S. cities, and against a council member in 5.3% of U.S. cities. Of those cities, the mayor was recalled in 17.6% of the elections, and the council member in 29.2% of the elections."

One of the primary reasons that few statewide officeholders have ever been recalled – Californians have tried 31 times to recall their Governors - is due primarily to the extreme difficulty in using the recall provision. Most states require a combination of an average signature requirement of 25 percent of those who voted in the last statewide election as well as a requirement that the person subject to the recall has committed an actual crime or other malfeasance. California has one of the lowest signature requirements for a recall provision - 12 percent - and no requirement that the Governor must have committed a crime in order to be subject to recall. These low requirements in conjunction with a low voter turnout in the 2002 election – thus drastically reducing the number of signatures needed for a recall petition – and a confluence of damaging economic and political events, made this latest recall effort in California possible. Of course the million dollar investment by Congressman Darrell Issa to fund the recall effort didn't hurt either.

But what in practical terms does this recall effort mean to California and the rest of the country. First, there is no doubt that the publicity surrounding the California recall effort has increased voters awareness of the recall device – similar to what Proposition 13 did for the initiative process in 1978. Just like Proposition 13 reinvigorated the initiative process across the country, the California recall effort has reinvigorated the citizens desire to hold their elected officials accountable by using the recall device. A secondary impact of the California recall effort is the call by state lawmakers across the country to reign in the recall device. Their claim that the recall device is being used improperly in California – for purely political reasons in their opinion – has led them to push for reforms to the process. This is similar to the reaction from lawmakers to the increased usage of the initiative process since Proposition 13 reinvigorated the initiative process in 1978. Whether or not lawmakers are acting for altruistic reasons or out of self protection is up to the individual observer – however, there is no doubt that their reaction to the use of the initiative process has been for less than selfless reasons.

Who will be Governor on October 8 in California is anyone's guess. But if the recall is successful, we will witness a dramatic and instant change of power - recall provisions call for the immediate removal of the Governor if the voters opt to adopt the recall. The candidate who receives a simple plurality of votes on Election Day will take office on October 8 allowing for no transition period. This portion of the recall provision, as well as the fact that Governor Davis has not been convicted of any crime, has caused some concern among the citizens in the state and has caused many to question whether or not Governor Davis should be subject to a recall.

It is solely for Californians to decide whether or not their state will once again be a possible trend setter in how a state is to be governed and to decide if the device proposed by California Governor Hiram Johnson in 1911 to hold government accountable is truly a good one. However, one thing that is for certain, it won't be hard for anyone in the very near future to recall when the recall was last utilized across this great and diverse land.