

Reactionary propositions on March 7 California ballot

Kim Saito, Don Knowland
4 March 2000

Three reactionary propositions are on the ballot in the March 7 California primary election. Proposition 21, the Juvenile Crime Initiative, would require adult trial and incarceration in correctional facilities for juveniles charged with a broad range of offenses, and would increase punishment for gang-related activities. Proposition 22, the Limitation on Marriages Initiative, provides that only marriages between members of the opposite sex will be recognized in California. Finally, Proposition 1A, the Gambling on Tribal Lands Legislative Constitutional Amendment, modifies the state Constitution's prohibition against casinos and lotteries in order to authorize the governor to negotiate compacts with Indian tribes to permit Nevada-style gambling on Indian reservations.

Historically, California has operated a juvenile court system separate from adult court. In juvenile court, the immaturity, vulnerability and special needs of juveniles are in theory taken into account in determining both "delinquency" (guilt) and punishment, if any.

In adult court such considerations do not apply, and sentencing is largely fixed for crimes, rather than variable. Proposition 21, drafted two years ago by former Governor Pete Wilson, mounts a wholesale attack on this separation. It further criminalizes working class and minority youth, the predictable casualties of the attacks on living standards over the past decade. It erodes their democratic rights and those of the working class as a whole.

California law already provides that juveniles 14 years of age or older with a prior felony conviction must be tried in adult court for violent crimes. Moreover, as to certain offenses, the prosecutor may petition the juvenile court judge to transfer a case against a minor 14 years of age or older.

Proposition 21 provides that juveniles 14 or older charged with certain types of murder or sex offenses must be tried in adult rather than juvenile court. Prosecutors are now to make the decision whether to file charges in adult court against juveniles 16 years of age or older without review by a juvenile court judge. Even mentally impaired youth will be subject to these procedures.

Under existing law, other than in cases of use or possession of a firearm, the probation department decides whether a juvenile should be detained pending a hearing on the charges. If the charges are sustained, the juvenile court judge, in consultation with the probation officer, decides whether the youth will be placed in probation or the California Youth Authority (CYA). As to youth tried in adult court, the judge can commit them either to the CYA

or to the California Department of Correction.

Proposition 21 removes from the probation department the discretion, in regard to 30 crimes, to release juveniles in advance of a hearing. It also requires that juveniles 16 years or older who are convicted in adult court be sent to state prison rather than the Youth Authority, thereby depriving them of the treatment or education available in the Youth Authority. Many studies indicate that juveniles who receive such adult court sanctions are much more likely to commit crimes and return to prison.

Proposition 21 would also eliminate the discretion of the probation department to handle juvenile probation outside of court on an "informal" basis for any juvenile offender who allegedly commits a felony. The measure also bars the sealing of juvenile offense records for any minor 14 or older as to serious or violent offenses. It reduces restrictions on law enforcement agencies as to disclosure of the identities of juveniles charged with serious offenses.

California already permits extra prison terms of one, two or three years for persons convicted of "gang-related" crimes. Proposition 21 increases those additional penalties to two, three and four years, and five to ten years for serious or violent crimes. The proposition also expands the law on conspiracy to include gang-related activities, allows wider use of wiretaps against suspected gang members and requires persons convicted of gang-related offenses to register with local police, like sex offenders. As the current Los Angeles Police Department scandal shows, these sorts of measures make it even easier for the police to attack anyone they consider to be a gang member.

Under current California law, persons convicted of a serious or violent offense are subject to longer prison sentences, restrictive bail and probation rules, and restrictions on plea bargaining. The "three strikes" law requires 25 years to life prison sentences for persons previously convicted of a single violent or serious offense, even if the third offense is not serious or violent. Proposition 21 would significantly expand the list of crimes defined as serious or violent offenses for these purposes.

Having failed five times in the past three years to persuade the state legislature to pass a discriminatory anti-gay marriage bill, Republican State Senator Pete Knight, whose estranged brother and son are both gay, and the religious right have resorted to framing it as a ballot measure.

California already defines marriage as a civil contract between a man and a woman, but also recognizes marriages from other states.

The proponents of Proposition 22 claim they are concerned that other states will validate same-sex marriages, which will then be valid in California. The so-called Defense of Marriage Initiative would allow the State of California to recognize only marriage between a man and a woman as valid.

Marriage is a basic human right which should not be denied to any individual. A Hawaii commission examining marriage discrimination concluded that banning same-sex marriages denied the people affected tangible advantages, including health and retirement benefits, life insurance, income tax, estate tax and wrongful death benefits, and spousal and dependent support.

Other minorities have long suffered under anti-miscegenation laws. In California the history of discrimination is long and well known.

In 1850 the legislature passed a law declaring "all marriages of white persons with Negroes or Mulattos" to be "illegal and void." In 1880, after Chinese coolie labor was no longer needed, the state legislature passed a law prohibiting issuing a marriage license to any white person who wanted to marry a "Mongolian." Even as late as 1967, 16 states had anti-miscegenation laws, which were finally defeated in a Supreme Court decision. The restrictions on gay marriage are no less reactionary.

Separation of church and state is also a fundamental democratic principle. Churches are free to decide whether or not to perform same-sex marriage ceremonies, but not to dictate private decisions concerning intimate association. The decision to marry belongs to the individual, not to the government, religious or political groups.

The California Constitution prohibits Nevada- or New Jersey-type casinos. California law also prohibits the operation of slot machines and gambling devices such as roulette, card games such as twenty-one, "banked" games (where the house has a stake in the outcome), and "percentage" games (where the house collects a given share of the amount bet). Other card rooms are legal, where players pay a fee on a per-hand or per-hour basis to play against other players.

Federal law permits Indian tribes to operate "Class III" gambling such as banked card games, video or electronic games, slot machines, horse race wagering and craps, only if the tribe has entered into a compact with a state permitting it.

There are over 100 Indian rancheras/reservations in California, some with under 100 members. Several of these began to engage in prohibited Class III gambling operations in reservation casinos.

In 1998 the California governor entered into compacts with 11 tribes to allow certain Class III gambling. In November, 1998 state voters approved Proposition 5, after millions of dollars were spent by tribes and opposing Nevada casino interests on advertising. The proposition amended state law, but not the Constitution, to require the state to enter into more expansive Class III gambling compacts with tribes.

The California Supreme Court ruled in August 1999 that Proposition 5 violated the state Constitution's restrictions on gambling. In September 1999 the governor negotiated compacts with 57 tribes authorizing certain Class III games and the legislature ratified those pacts. Now Proposition 1A would modify the state Constitution to authorize slot machines, lottery games and banking and percentage card games on Indian lands if approved by

compact. The compacts also require tribes with casinos to share some revenue with tribes without them.

Huge sums of money and major business interests are at stake here. Nevada casino operators feel their large California market is at risk. The tribes argue that after generations of oppression, poverty, despair and dependency, casinos are their only hope for "self-sufficiency." Sympathy and widespread support for rectifying prior wrongs against Indians was undoubtedly a factor in the passage of Proposition 5 by a margin of more than 60 percent.

But casinos are not a progressive solution to the plight of Indians. Workers should no more support these casinos than they would an oppressed poor country relying on the narcotics trade to raise its living standards.

The issue at stake is not fundamentally one of morality. There are 5.5 million adult pathological or problem gamblers in the US, with another 15 million at risk. Pathological gamblers engage in destructive behavior, commit crimes, run up large debts, and damage relationships with families. The economic desperation of many gamblers only leads them to more reckless gambling. Proposition 5 will permit 40,000 to 100,000 additional slot machines and interactive video games, highly addictive forms of gambling.

Fundamental economic, social and political changes are necessary to end the oppression of Indians, and, more generally, the working class population. The proliferation of gambling is a destructive diversion from the development of the type of political movement and struggle by working people which can seriously address the acute problems of poverty, unemployment, lack of education, housing and health care, and the growth of social inequality. Legalized gambling in the end enriches the few at the expense of the many. Among Native Americans, the masses remain in poverty, while a small elite benefits.



To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact