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OP-ED CONTRIBUTOR

## From Pitchforks to Proposition 13

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**S**TANFORD, Calif.

On Jan. 25, 1787, 1,200 desperate farmers brandishing barrel staves and pitchforks attacked the federal arsenal in Springfield, Mass. They called themselves the Regulators. Led by a debt-plagued veteran of Bunker Hill and Saratoga named Daniel Shays, they sought firearms with which to enforce their threats to close the courts in western Massachusetts and compel the legislature to enact debt-relief measures, including an inflationary paper currency and an end to mortgage foreclosures.

A single cannon volley killed four of the embattled farmers. Then a Revolutionary War hero, Gen. Benjamin Lincoln, arrived with a militia that scattered the remaining rebels and relentlessly hunted them down through the heavy snow. Yet the Regulators' failed outburst had consequences that have shaped the character of American politics for more than two centuries, up to the current recall election in California.

The uprising was handily crushed. But it intimidated the Massachusetts legislature into enacting laws that menaced the interests of the monied class. Many leaders in the founding generation gagged on this apparently craven pandering to the popular will. Outright insurrection was one thing, but the state legislature's cavalier disregard for property rights was a far more insidious threat. "An elective despotism," Thomas Jefferson wrote, "was not the government we fought for."

Shays' Rebellion, in short, had demonstrated that America was not immune from the inherent affliction that theorists of democracy had warned against since the days of the ancient Greeks: that a government based on the will of the majority would inevitably yield to the demands of the "mob" and lead to a tyranny of the majority. Such a polity would be resentful toward excellence and callous toward minority rights. Worst of all, it would wield the power of the state against more prosperous members of society and confiscate their wealth.

To protect the United States from that unhappy fate, leaders like James Madison called for radically revising the Articles of Confederation, under whose rules the fledgling republic was then governed. The result was the Constitutional Convention of 1787, which convened four months after General Lincoln turned back the rebels. At the convention, Madison and others drafted a new fundamental law whose checks and balances and elaborate federal structure would, among other things, frustrate the confiscatory designs of future would-be Regulators. For better or worse, Daniel Shays thus deserves to be recognized as a founder.

Over time, many Americans came to believe that the Constitution's drafters had seen their duty — and overdone it. The framers had created a federal governmental apparatus too well insulated from the popular will, too difficult to mobilize for any common purpose, whether confiscatory or constructive, and too easily hijacked by special interests whose machinations eluded public scrutiny. At the dawn of the

20th century, that kind of thinking animated a host of so-called progressive reformers, conspicuously including a cantankerous California Republican named Hiram Johnson.

A self-styled "natural rebel" (and Arnold Schwarzenegger's improbable political hero), Johnson was elected governor of California in 1910. In a flurry of political innovation unmatched before or since in the state, Johnson flamboyantly battled giant corporations like Southern Pacific Railroad and incorporated several radical reforms into the California constitution. They included the direct election of United States senators, previously selected by the legislature; the initiative, by which citizens can directly write laws; the referendum, by which they can undo the work of the legislature; and of course the recall, which provides for the removal of elected officials.

In the spirit of Daniel Shays, Hiram Johnson sought to transform California into a model of majoritarian, popularly responsive, direct democracy. But one must always be careful what one wishes for: Johnson would probably be appalled by many of the results of his reforms.

The initiative process that he championed has contributed to the near-fatal weakening of the legislature, and has created prodigious opportunities for manipulating and mismanaging the state's political business. Legislators have been reduced to diddling uselessly in Sacramento while various interest groups routinely bamboozle the electorate with proliferating ballot initiatives that are poorly written, often contradictory, and nearly always bad law. Proposition 13, for example, which passed in 1978, addressed a real problem — wildly rising property taxes — with an inept combination of inequitably defined tax limits and impossibly large supermajority requirements for any revisions in the law.

Proposition 13 led directly to drastic slippage in financing for local schools, and has contributed heavily to the state's current fiscal crisis. But as Warren Buffett found out when he urged Arnold Schwarzenegger to make the overhaul of Proposition 13 the centerpiece of his gubernatorial campaign, even suggesting changes to that infamous initiative is forbidden. (Mr. Schwarzenegger told Mr. Buffett that if he mentioned Proposition 13 again he would have to do 500 push-ups. Mr. Buffett has not been heard from since.)

Proposition 13's untouchability, and Mr. Schwarzenegger's fierce commitment to it, suggest that something has happened in American society that would have mystified Daniel Shays — and Hiram Johnson as well. In their very different ways, they sought greater democracy as the means to a government that was more responsive to the masses.

But in California more democracy has produced not more attacks on the wealthy and big business but chronic chaos and even paralysis — a kind of political catatonia perversely sanctified by neoconservative and libertarian dogmas that assert, as another former governor of California put it, that "government is not the solution to our problem; government is the problem." (Shays may have agreed with the second clause of that sentence, but certainly not with the first; he wanted to use the government to protect debtors and the disadvantaged.)

To the extent that Californians — and Americans — subscribe to that view, they have confounded the predictions of countless theorists about the nature of democratic politics. Among those theorists, Alexis de Tocqueville is an exception, for he identified the peculiarities of the American case now so vividly manifest in California, that most American of states. The characteristic social class that American society nurtured, said Tocqueville, was composed of "eager and apprehensive men of small property." Though born in revolution, their country was unlikely ever again to undergo revolutionary upheaval. "They love change, but they dread revolutions," Tocqueville concluded, because "they continually and in a thousand ways feel that they might lose by one."

That social class of small property owners, and its attendant attitudes, are now ascendant in California, and perhaps in the nation at large. Their influence explains why the government from which Shays demanded relief, and the government that Johnson tried to place more firmly in the hands of the people, has now become the object of popular suspicion and hostility. Americans apparently prefer misgovernment that will leave them to their own devices to an effective government that might actually do something for them — or ask something of them.

We've come a long way from the Regulator to the Terminator.

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