

# The 25th Anniversary of California's Proposition 187

RICK OLTMAN

In 1994, Californians stood up in a big way for immigration reform. We qualified and passed a ballot measure with 59 percent of the vote, which set the standard for successful immigration activism in America: The Save Our State Initiative — Proposition 187.

In the early 1990s, as citizens in California began to see and complain to elected officials about the problems in their communities that were either caused or exacerbated by illegal aliens, the typical refrain from city councils and county supervisors was, “Immigration is a federal problem.” This pathetic whimper was uttered countless times in countless cities as crime increased, school quality decreased, and emergency rooms overflowed with non-emergency, but more importantly, non-paying, illegal alien patients. Low-income-earning citizens, mainly minorities and entry-level workers, were pushed out of jobs, by illegal aliens.

In 1989, almost three years to the day of the implementation of the IRCA — The Immigration Reform and Control Act of 1986 (the amnesty which was supposed to end illegal immigration but didn't, because the promised enforcement of our immigration laws never occurred) — citizens in San Diego County led by Muriel Watson,

the widow of a U.S. Border Patrol agent, began parking their cars after dark on Dairy Mart Road above the Tijuana River, shining their headlights south to “Light Up the Border” and spot illegal aliens entering our country. Mrs. Watson announced in 1990 that she was suspending her efforts because officials in the United States and Mexico had promised to act to end the illegal entry. Of course, nothing was done to curtail the illegal influx. IRCA, the Simpson-Mazzoli Act amnesty, was like ringing the dinner bell as people around the world, believing they too could get amnesty, crossed our borders illegally in greater numbers than ever before.

In the California State Assembly in Sacramento, in the early 1990s, a few courageous legislators led the fight to pass state laws to deal with illegal aliens. Assemblymen Pete Knight and Bill Morrow worked with Assemblyman Dick Mountjoy from Monrovia, California.

Mountjoy, a former Mayor of Monrovia, introduced over a dozen pieces of legislation in the 1993-1994 session of the California Assembly. None of the bills was given any chance to become law, and most didn't become law. His most important success was a bill that changed California law to prevent illegal aliens from being issued a California Driver License. It was signed by Governor Pete Wilson and went into effect on January 1, 1994.

It was because of California Governor Gray Davis' support for giving illegal aliens driver licenses, as well as his efforts to destroy Proposition 187 — the Save Our State Initiative in 1999 — that Davis became the first and only Governor to be recalled in California history in 2003.

Today in California illegal aliens can get a driver license designed by California law for illegal aliens, but it is not allowed to be used as probable cause for asking about immigration status.

Dick Mountjoy was the creator of Proposition 187. After seeing most of his bills thwarted in 1993, he decided to put the legislation into proposition form and put it on the ballot.

Mountjoy was joined by experts in immigration law and enforcement from the Reagan Administration, including: Alan C. Nelson, former Commissioner

---

*Rick Oltman, a frequent contributor to The Social Contract, has worked for immigration reform for almost twenty years. He has lobbied in Washington, D.C., and in dozens of state capitals for secure borders and immigration enforcement. He has been featured on the PBS News Hour, MSNBC Reports, CNN, Lou Dobbs, Anderson Cooper 360, and the FOX Business Channel and FOX News Channel. In 1994 Rick was Chairman of the YES ON 187-SAVE OUR STATE campaign supporting Proposition 187. In 2004 Rick worked with Arizona activists to qualify Proposition 200, Arizona's state initiative that required proof of citizenship when voting or applying for public benefits. Prop 200 won with 57 percent of the vote.*

of INS; Harold Ezell, former head of the INS's Western Region; Bill King, former Chief Patrol Agent of the Border Patrol; and Pete Nunez, former U.S. Attorney.

These five men fashioned the law based on what they hoped to accomplish in stemming the influx of illegal aliens into California, which was, in the early 90s, ground zero for illegal immigration into our country.

They named the initiative Save Our State (SOS).

Section 1 of Proposition 187 provides this introduction:

The People of California find and declare as follows: That they have suffered and are suffering economic hardship caused by the presence of illegal immigrants in this state. That they have suffered and are suffering personal injury and damage caused by the criminal conduct of illegal immigrants in this state. That they have a right to the protection of their government from any person or persons entering this country unlawfully.

Mountjoy and Company then reached out to immigration reform groups throughout the state, many newly formed. Hundreds of thousands of signatures were needed, and activists all over the state began gathering them at shopping malls, sports events, everywhere there were large crowds.

The goal of Save Our State was simple: To cut off all California taxpayer dollars to illegal aliens, with the exception of emergency healthcare. Proposition 187 was, in reality, a tax law: a tax law that denied taxpayer money and services to illegal aliens, which was in the billions of dollars 25 years ago.

The most controversial section of Prop 187 was Section 7, which excluded illegal alien students from public schools. Public school funding in California has typically been near half the entire state budget. In recent years taxpayer-supported funding for K-12 education has averaged between \$60-\$70 billion a year. And it was certain to be challenged in the courts. The U.S. Supreme Court's 5-4 ruling on *Plyler v. Doe* in 1982 found that the state of Texas couldn't exclude illegal alien students from public schools. That ruling by the Supremes officially mandated a taxpayer-funded American public school education for every student in the entire world. All they had to do was get to America.

Mountjoy, Nelson, et al. knew that a court challenge was certain. But Al Nelson's attitude was that the Texas law was narrowly struck down 5-4, and the 1994 Supreme Court had added new members in the fourteen years since that ruling. And, if Texas couldn't make the case that American students were being disadvantaged by illegal alien students in the late 1970s, California could certainly prove it in the mid-1990s.

Response to the initiative was uniformly hostile.

Almost every news outlet was hateful in its reports. Supporters were maligned and smeared in ways that are standard fare today, but shocked fair-minded people 25 years ago.

Professional associations, business associations, doctors and nurses and labor unions (surprisingly at that time) denounced the effort. The California Democratic Party was opposed, and the California Republican Party was dubious and offered no support, initially. Many nationally known Republicans like Jack Kemp, Bill Bennett, and others were highly critical of us.

It was totally a statewide effort by patriotic Californians. Assistance was requested from some organizations outside California, but nothing came of it. There was some supporting lip service once it was obvious Prop. 187 would win with the voters, but all of the blood, sweat, toil, and tears...and success...were Californian.

Every initiative campaign has three phases: Qualification, Election, and Litigation.

### QUALIFICATION PHASE

Gathering enough signatures to qualify Save Our State was a Herculean effort in a state the size of California. Of the 385,000 valid voter signatures required, typically 70 percent of the signatures gathered would be valid, so you had to gather more than were required. And soon it became obvious that paid signature gatherers were needed if SOS was to qualify for the November ballot. But that would cost money, something the SOS campaigns did not have a lot of.

Governor Pete Wilson was up for re-election in 1994, having defeated former San Francisco Mayor Diane Feinstein in 1990. Wilson's 1994 opponent was Kathleen Brown, daughter of a popular former governor, Edmund G. "Pat" Brown, and sister of a popular former (and future) governor, Jerry Brown. In March of 1994, Pete Wilson was at 24 percent in the polls.

Joe Shumate, Deputy Chief of Staff to Wilson and key advisor to his re-election campaign (who would, two years later, lead Russian President Boris Yeltsin to re-election), told me five years after our victory that he was the one who suggested to Governor Wilson that supporting an anti-illegal alien initiative would help him with the voters in November. In early '94 there were two initiatives seeking to qualify, but Save Our State had a big lead in number of signatures gathered and publicity. "Save Our State," Shumate told Wilson, "will save the Wilson Re-election Campaign."

The plan was to convince a reluctant California Republican Party to fund the hiring of paid signature gatherers to qualify Save Our State for the ballot.

Assemblyman Dick Mountjoy lobbied his associates from Sacramento, and Al Nelson reached out to his contacts from the Reagan Administration.

I was a voting member of the California Republican Party (CRP) and co-chair of the CRP Outreach Committee, which had sponsored the first ever illegal immigration workshop in the country at a CRP convention 18 months earlier, which I emceed on September 19, 1992. That meeting kicked off the entire California-wide “immigration reform movement” by bringing together leaders from around the state and the country, who had not met each other and were only vaguely aware of each other’s efforts. It was also at that meeting that the first mention of a state initiative dealing with illegal immigration was suggested. Al Nelson said then that he liked that idea.

Californians started the anti-illegal immigration movement in the country with Proposition 187.

In the early ’90s there was no broadband Internet. Communication was done by phone or fax or U.S. mail. I wrote resolutions for the Resolution Committee supporting immigration enforcement, and lobbied CRP supporters of enforcement to support the initiative with dollars. The initiative became tremendously popular. Stan Hess was with my committee and collected over 5,500 signatures in just a few months. Many weren’t counted, we later learned, because some Post Office workers were throwing away the envelopes with signed petitions in them.

Glenn Spencer, who has probably done more than any single activist in the whole country to work to stop illegal immigration, and his Los Angeles-based group, Voice of Citizens Together (VCT), gathered approximately 40,000 signatures.

As for popularity, when we began soliciting signatures from voters in the parking lots of shopping centers, we were more often than not, politely declined. But, one day I called out to the group that had declined to sign and walked past, “This initiative is about stopping illegal aliens from getting *tax* dollars!” Whole groups of people, including families turned around, walked back and signed. I notified signature gatherers all around the state, and very soon heard similar stories that were repeated throughout the signature-gathering campaign.

Serious metaphorical arm-twisting took place within the CRP, which produced the desired result.

The California Republican Party boosted the pro-Proposition 187 campaign with a contribution of \$286,000, as reported by the *Los Angeles Times*, which funds were used to hire Arno Political Consultants to put their army of paid signature gatherers into the communities and SOS over the top. Mike Arno’s leadership and political savvy also paid off ten years later in 2004 in Arizona, where his team took a faltering initiative drive, Protect Arizona Now, and, against all odds, qualified it (Proposition 200) for the ballot also. Arizona’s Prop 200 won with 56 percent of the vote with the support of 47 percent of Hispanic-American voters.

## ELECTION PHASE

The election campaign was no less hectic. Earned media was essential, and debates, news interviews, and public speaking were all key components of the campaign.

Pete Wilson endorsed Proposition 187 in September, leading into the final phase of the campaign. He ran his now famous “banzai” TV ads, which showed real video footage of illegal aliens running through the port of entry at San Ysidro in large numbers: a foretaste of today’s “flash mobs.” Support for enforcement skyrocketed.

On October 28, 1994, eleven days before the election, I was invited to speak in favor of Prop. 187 on C-SPAN. My opening statement told California, and the country, what we were trying to accomplish with Prop 187:

*“The main argument is that the federal government has not fulfilled its responsibility to the state in protecting us from illegal immigrants. And not only haven’t they protected our borders from illegal immigrants, but they’ve stuck us with the bill. Currently California spends almost \$4 billion a year for social services for illegal immigrants, and we feel this is wrong, it’s unfair that, in the case of healthcare, California taxpayers have to pay their own healthcare, and now they’re also having to pay through their taxes for health care for illegal immigrants. Almost \$900 million last year was paid for healthcare for illegal immigrants, we feel this is unfair. What Proposition 187 seeks to do is to take away the state-funded social services from illegal immigrants, provide new penalties for document fraud, and also require the police to report criminal aliens to the INS. It attempts to get all levels of government involved with the problem of illegal immigration, which has gotten so bad in the last few years that grassroots organizations have worked hard to put Prop. 187 on the ballot.”*

In the final week of the campaign the California Poll showed Pete Wilson far ahead of his opponent and Prop 187 was leading in the polls almost 2-1.

The election results were a testament to the California voter and support for immigration law enforcement. Pete Wilson rallied over 30 points to win re-election with 56 percent of the vote. Proposition 187, outspent, vilified, mischaracterized, lied about, and smeared, won with 59 percent of the vote.

The efforts of a few good men, an army of volunteers, a reluctant California Republican Party, a sharp political consultant, a savvy governor, and the expertise of Mike Arno made a momentous statement on November 8, 1994. It was a political earthquake; Taxpayers didn’t want to fund services for illegal aliens.

In December of 1994, a month after our victory, I was called by the governor’s office to head down to a hotel near San Francisco International Airport to join a meet-and-greet for then Texas Senator Phil Gramm, who was considering a 1996 Presidential run.

I was standing in the banquet room with my friend

Jim S. awaiting Gramm's arrival, and he walked right over to me and said, "Y'all did a great job on that 187." I informed the Senator that I was going to be in Washington, D.C. in a month (January 1995) and would like to discuss with his staff federal legislation that would get control of illegal immigration.

"You bet," he smiled. "You just set it up here with Billy-Bob (whatever his name was) and we'll get together." In Washington, I never got past the front desk.

Back in California I tried unsuccessfully to get the California Republican Party to endorse legislation and/or initiatives to continue the work on illegal immigration. I could not get an appointment or even a phone call with the new Chairman of the CRP, even though I was a voting member of the state party, Co-Chair of the CRP Outreach Committee, and Chairman of one of the winning Save Our State campaign committees.

### LITIGATION PHASE

The California Coalition for Immigration Reform, led by the late, tireless Barbara Coe, posted a brief history of Proposition 187 and what followed the overwhelming victory.

The constitutionality of Proposition 187 was challenged by several lawsuits three days after winning, on November 11, 1994, and it got stuck in the courts.

In November 1997, Judge Mariana Pfaelzer found the law to be unconstitutional on the basis that it infringed on the federal government's exclusive jurisdiction over matters relating to immigration. Governor Pete Wilson appealed the ruling, which brought the case to the notorious (even then) Ninth Circuit Court of Appeals.

### EUTHANASIA PHASE

In 1999, the newly elected Gov. Gray Davis (D) had the case brought up for "mediation." The "mediation" was a fraud, and Davis withdrew the appeal that was before the court in July 1999, killing Save Our State.

However, the problems of illegal immigration had gotten visibly worse, and Prop 187 was still tremendously popular with voters. In 2003, Governor Gray Davis become the second governor in U.S. history to be recalled by the voters. Davis was recalled, largely, because he illegally euthanized Proposition 187. Republican Arnold Schwarzenegger was elected governor at that time, but he never did anything to try to solve the illegal immigration problem.

In 2014, parts of 187 were still on the books when the pro-illegal alien California Assembly passed SB 396, which removed those sections from the state's education, health and safety, and welfare codes. On September 15, 2014, Gov. Jerry "Moonbeam" Brown signed the legis-

lation that repealed the provisions of Proposition 187, which sought to withhold public services from illegal aliens. State Sen. Kevin de León (D-Los Angeles), a pro-illegal alien open borders fanatic, introduced the repeal bill because he thought keeping the Proposition 187 language on the books was divisive.

### STILL LYING ABOUT PROP. 187

Gavin Newsom, the current governor of *The People's Democratic Republic of California*, declared in a propaganda rant to *Politico* that, "America in 2019 is California in the 1990s...The xenophobia, the nativism, the fear of 'the other.' Scapegoating. Talking down or past people. The hysteria. And so, we're not going to put up with that. We are going to push back."

He predicted the national Republican Party will suffer the same fate as California's and is destined for the "waste bin of history." He then referenced the decline of the California GOP after former Gov. Pete Wilson threw his support behind Proposition 187 in 1994.

Newsom told a well-known lie.

That lie, that Proposition 187 led to the decline of the Republican Party in California, has been repeated over the years in an attempt to stop any effort to enforce our immigration laws. It is pure propaganda.

If anything led to the decline of the California Republican Party (CRP), it was their lack of support and follow-up to the tremendous victory in November of 1994, when, against all odds and opposition from practically everyone on both sides of the political aisle, both in the state and nationally, we won an outstanding victory with nearly 59 percent of the vote. The CRP did not want to do anything to get one of the most popular initiatives in recent history out of the lower courts. The CRP is now a shadow of its former self.

### EPILOGUE

Twenty-five years ago, Californians saw that the federal government wasn't doing its job to protect our communities, secure the border, and end illegal immigration.

In 1994, only Californians could see the future impact on our country and communities if illegal immigration wasn't stopped. We predicted it, we warned about it, we worked to get our laws enforced.

In 2019 there isn't a community in our country that doesn't see today what Californians saw, and warned about, a quarter century ago.

Many thanks to the brave, hard-working, and selfless volunteers who helped to qualify and pass the ballot measure that kicked off our national efforts to enforce our immigration laws, and protect our country, our culture, and Western Civilization. ■