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**Why Did Californians Pass Proposition 8?
Stability and Change in Public Support for
Same-Sex Marriage**

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Abstract

Despite numerous public opinion polls indicating that California voters would defeat Proposition 8, a proposed constitutional amendment to limit marriage to one man and one woman, Election Day 2008 brought an end to six months of marriage equality for same-sex couples. This paper explores four possible explanations for why Californians passed Proposition 8 despite the polls: (1) poll respondents did not respond honestly to pollsters; (2) some respondents who opposed same-sex marriage were initially reluctant to amend the constitution for this purpose; (3) the campaign over the amendment changed people's opinions about same-sex marriage; and (4) poll respondents did not initially understand how to accurately connect their position on same-sex marriage with the "right" position on Proposition 8, but that they gained such knowledge over time. This study finds minimal support for the first three explanations and weak support for the final explanation.

Keywords: gay rights, same-sex marriage, public opinion

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The Polls and Proposition 8: Why Did Californians Reject Same-Sex Marriage?

Three May 2011 polls show Minnesotans split over a constitutional ban on same-sex marriage (SSM), which Republican state legislators have placed on the November 2012 ballot. Across the three polls, opposition ranges from 40% to 55% and support varies between 46% and 51% (Stassen-Berger 2011; Hauser 2011; Public Policy Polling 2011). Thus, Minnesota could become the first state in which a popular vote defeats a “clean” anti-SSM constitutional amendment (one that does not also ban other legal recognition of same-sex relationships).¹ Many marriage equality supporters expected California to gain that honor in 2008, when a series of polls indicated that voters would defeat Proposition 8, a similar clean amendment. When Proposition 8 nonetheless passed 52-48, it not only shocked SSM supporters but raised doubts about whether polls could be trusted and whether voters in any state would approve SSM. The political landscape has changed dramatically since,

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and Proposition 8 no longer looks as important as it did at the time. Legislatures in Maine, New Hampshire, Vermont, and the District of Columbia have passed SSM laws, and legislatures in Connecticut and Iowa chose not to challenge court decisions that ordered their states to stop denying marriage rights to same-sex couples. Legislatures in New York and Rhode Island have come close to passing SSM; and Hawaii, Illinois, Washington, and Nevada have joined California, New Jersey, and Oregon in passing broad legal recognition of same-sex relationships. Public support for SSM has risen substantially in the past two years: a handful of national polls since August 2010 shows that majorities now support SSM. These polls have not been put to the test, however, and support varies widely by state (Lax and Phillips 2009; Lewis and Oh 2008). Although Washington voters upheld their “everything but marriage” domestic partnership law in 2009 by a 53-47 margin (La Corte 2009), Maine voters vetoed that state’s SSM law by the same margin in the same year.

California offers an excellent case for studying public opinion in state battles over SSM. It is large and important enough that we were able to obtain individual-level data from 24 polls of state residents since 1985, including several polls conducted during the Proposition 8 campaign. We use these data to test four hypotheses for why Californians passed Proposition 8 after telling pollsters they would not: (1) many respondents misled pollsters, perhaps worried that they would appear bigoted if they expressed their real beliefs; (2) some SSM opponents who initially objected to writing discrimination into the constitution changed their minds over the year; (3) public support for SSM dropped during the campaign; and (4) survey respondents misunderstood the language of Proposition 8 in early polls and more accurately stated their positions as they became more aware of its meaning.

Background

Courts and legislators in California have been more sympathetic than most to same-sex relationships (Lewis and Gossett 2008). Although the legislature passed a law defining marriage as only between a man and a woman in 1977, and although voters affirmed that law at the ballot box in 2000, the legislature created domestic partnerships in 1999 and gradually expanded them to provide same-sex domestic partners with almost all of the state-sponsored legal benefits of marriage, except the word “marriage.” It also passed SSM laws in 2005 and 2007, though Governor Schwarzenegger vetoed both (Davies 2007). When some California local governments issued marriage licenses to same-sex couples in 2004 after the Massachusetts supreme judicial court overturned that state’s SSM ban, California’s state supreme court invalidated the locally licensed marriages but invited a challenge to the ban (*Lockyer v. City and County of San Francisco* 2004). On May 15, 2008, the high court ruled the ban unconstitutional and ordered the state to begin issuing marriage

licenses to same-sex couples (In re Marriage Cases 2008). By the date of the election on Proposition 8, an estimated 18,000 gay and lesbian couples had married.

On the one hand, these actions suggest that California voters were comfortable with legally recognizing same-sex relationships. State policy tends to reflect public opinion (Page and Shapiro 1983; Erikson, Wright, and McIver 1993; Burstein 2003), perhaps especially when “direct democracy” institutions, like California’s initiative process, allow voters to overturn legislative decisions (Gerber 1996; Hagen, Lascher, and Camobreco 2008; Lascher, Hagen, and Rochlin 2009; Matsusaka 2001; Monogan, Gray, and Lowery 2009; Arceneaux 2002; Lewis 2011). Several studies confirm that state laws on gay rights and SSM reflect public opinion (Lewis 2003; Lewis and Oh 2008; Lax and Phillips 2009).

On the other hand, California’s initiative process provides an access point for anti-gay rights policy entrepreneurs, giving voters a direct voice in public policy. The results have been mixed for gay rights in California. In 1978, voters decisively (58-42) rejected the Briggs Initiative, which would have banned gay men and lesbians from teaching in public schools. In 2000, however, voters even more decisively (61-39) approved the Knight Initiative, which inserted the words “Only marriage between a man and a woman is valid or recognized in California” into the state’s Family Code. As the constitutional challenge to the Knight Initiative moved up through the courts, SSM opponents mounted an initiative drive to insert its language into the state constitution. This drive gathered the necessary signatures shortly after the court’s 2008 decision, even before the first same-sex couples married.

The Polls and Proposition 8

The history of popular voting on gay rights favored SSM opponents. According to Gamble (1997, 145), “Without the filtering mechanisms of the representative system, direct democracy promotes majority tyranny . . . [when] citizens vote on civil rights law.” She reports that 79% of anti-gay rights initiatives between 1977 and 1993 passed. Donovan and Bowler (1998) find less evidence of an anti-gay bias in popular votes, especially in larger jurisdictions, but Haider-Markel, Querze, and Lindaman (2007) and Lewis (2011) concur with Gamble’s contention. Between 2004 and 2006, 23 of the 24 states that voted on constitutional bans on SSM passed them, usually by overwhelming majorities, and California voted for a legal ban on SSM (the Knight Initiative) in 2000.

National and state polls gave little reason to expect California voters would support SSM. Several studies indicated strong and fairly stable opposition to SSM until very recently—in most polls, 55% to 65% opposed it and only 30% to 35% favored it (Rogers 1998; Yang 1997; Brewer and Wilcox 2005). Brewer and Wilcox (2005, 600) concluded that “from the early 1990s to the present . . . , there is no sign

of a dramatic trend toward greater support.” Lewis and Oh (2008, 45) found “a very weak upward trend, and . . . drops in years when the SSM debate was hottest.” Using data on Californians from national polls, Lewis and Oh (2008) estimated only 40% support for SSM in 2004, very close to the estimate of Lax and Phillips (2009), using different data and methods. Based on state polls of Californians, Lewis and Gossett (2008) found support for SSM rising from 30% in 1985 to 43% in 2006, but still far short of a majority.²

Polling on Proposition 8, however, told a different story. Although one early poll showed only 36% opposition,³ six statewide polls between May and October 2008 found Proposition 8 opponents outnumbering supporters (Table 1). Five of those polls showed 51% to 54% voting against the proposition and only 38% to 44% voting for it. In the sixth, only 49% opposed it, but opponents were still five points ahead of supporters. On Election Day, however, 52% voted for the ban, well beyond the margin of error of the six polls.

One possible explanation for why the polls got Proposition 8 wrong is a gay “Bradley effect”⁴ (Citrin, Green, and Sears 1990). That is, some people who planned to vote “Yes” on 8 *told* pollsters they would vote “No,” perhaps to avoid being seen as bigots. ProtectMarriage.com (2008), which led both the initiative effort and the “Yes on 8” campaign, released a study during the campaign indicating that polls taken before popular votes on SSM had underestimated “support for traditional marriage . . . in 23 of the 26 states studied.” Their campaign manager suggested that the reason was that “the media portrays SSM as being politically correct. Supporters of traditional marriage don’t want pollsters to consider them intolerant, so they mask their true feelings on the issue.”

The argument does not seem convincing, however. Egan (2008) notes that the ProtectMarriage.com study treats “don’t know” responses as opposition to “traditional marriage”; when he splits the “don’t know” respondents appropriately, the polls are within a percentage point or two of election results, on average. Herek (2008) argues that the study selectively includes several polls conducted many weeks or months before the election, neglects some polls that show greater support for “traditional marriage,” and ignores the fairly large margins of error of many of the polls. Logically, SSM does not seem popular enough to be “politically correct” among the general public. However, in a reversal of his earlier position, Egan (2010) finds that state polls accurately predict opposition to SSM bans but underestimate support, consistent with some SSM opponents telling pollsters they were undecided or with virtually all undecided voters coming down in favor of the ban.

A second possible explanation is that some Californians who personally opposed SSM may have also opposed writing that ban into the state constitution early in the year but changed their minds as the campaign progressed. In an earlier national debate, the “sanctity” of the U.S. Constitution appears to have been an ef-

Table 1. Trends in Attitudes toward Same-Sex Partnerships

	Attitudes toward Marriage				Ballot Initiatives				
	Yes	Unions	No	DK	N	Oppose	Favor	DK	N
1985 – June, Field ^A	30.1	.	61.8	8.1	1,005	.	.	.	.
1997 – June, Field ^A	37.7	.	55.7	6.6	1,045	.	.	.	.
1999 – Sept., PPIC ^E	.	.	.	.	.	32.2	63.6	4.3	2,017
1999 – Dec., PPIC ^E	.	.	.	.	.	36.9	56.8	6.3	2,037
2000 – Jan., PPIC ^E	38.3	.	61.0	0.7	1,989	34.6	59.0	6.3	2,005
2000 – Feb., PPIC ^E	.	.	.	.	.	36.8	58.2	5.0	2,046
2003 – Mar., Field ^A	43.4	.	48.9	7.6	317	.	.	.	.
2004 – Feb., Field ^A	44.2	.	49.9	5.9	958	.	.	.	.
2004 – Feb., LAT ^C	31.9	38.3	25.2	4.7	1,936	.	.	.	.
2004 – Feb., PPIC ^A	43.6	.	48.9	7.5	1,990	.	.	.	.
2004 – Apr., LAT ^C	31.2	39.8	24.5	4.5	1,571	.	.	.	.
2004 – May, Field ^A	39.9	.	54.7	5.4	514	.	.	.	.
2005 – Aug., PPIC ^B	43.6	.	47.5	8.9	1,998	.	.	.	.
2006 – June, Field ^D	32.0	32.7	31.0	4.2	500	.	.	.	.
2006 – June, Field ^A	43.9	.	49.9	6.3	500	.	.	.	.
2006 – June, PPIC ^B	43.4	.	47.7	8.9	2,002	.	.	.	.
2007 – June, PPIC ^B	44.3	.	48.1	7.6	2,002	.	.	.	.
2008 – May, LAT ^{C, G}	34.8	29.8	29.4	6.0	834	36.1	50.9	13.0	834
2008 – May, Field ^{D, E}	45.1	31.5	19.3	4.2	1,052	53.9	39.7	6.5	679
2008 – May, Field ^F	41.6	.	50.8	7.7	1,052	50.6	42.5	6.9	381
2008 – July, Field ^{D, H}	45.3	35.1	15.4	4.3	674	51.3	42.4	6.3	680
2008 – Aug., PPIC ^I	44.8	.	48.2	7.1	1,7	53.7	40.1	6.2	1,468
2008 – Sept., Field ^J	.	.	.	.	.	52.1	38.4	9.5	853
2008 – Sept., Field ^K	.	.	.	.	.	54.5	37.8	7.7	816
2008 – Oct., Field ^L	.	.	.	.	.	49.0	44.2	6.8	976
2008 – Oct., PPIC ^{B, I}	44.4	.	50.1	5.5	1,992	51.0	44.1	5.0	1,572
2009 – Feb., Field ^{A, L}	44.9	33.6	18.5	3.0	61	48.2	46.6	5.3	767

Marriage Questions:

^A Would you approve or disapprove of a law that would permit homosexual people to marry members of their own sex and to have the regular marriage laws apply to them? (In 2009, changed to: Do you approve or disapprove of California allowing homosexuals to marry members of their own sex and have regular marriage laws apply to them?)

^B Do you favor or oppose allowing gay and lesbian couples to be legally married?

^C Which of the following most closely resembles your own view about state laws regarding the relationships of two people of the same sex? “Gay and lesbian couples should be allowed to legally marry,” or “Gay and lesbian couples should be allowed to form civil unions or domestic partnerships, but not legally marry,” or “There should be no legal recognition of gay or lesbian couple’s relationship.”

^D In general, which of the following statements comes closer to your view? “Same sex couples should be allowed to legally marry,” or “Same sex couples should be allowed to legally form civil unions, but not marry,” or “Same sex couples should not be allowed to either marry or form civil unions.”

Constitutional Ban Questions:

^E Proposition 22, the “Limit on marriage” initiative on the March 2000 ballot, adds a provision to the family code providing that only marriage between a man and a woman is valid or recognized in California. If the election were held today, would you vote yes or no on Proposition 22?

^F “Do you favor or oppose changing the California constitution to define marriage as between a man and a woman, barring marriage between gay and lesbian couples?”

^G “As you may also know, a proposed amendment to the state’s constitution may appear on the November ballot, which would reverse the Supreme Court’s decision and reinstate a ban on SSM. The amendment would state that marriage is only between a man and a woman. If the November election were held today, would you vote for or against the amendment to keep marriage only between a man and a woman? Well, as of today do you lean more toward voting or for it or lean more toward voting against it?”

^H “Would you favor or oppose having the state constitution prohibit SSM by defining marriage as only between a man and a woman?”

^I Proposition 8 is called the “Eliminates Right of Same-Sex Couples to marry Initiative Constitutional Amendment.” It changes the California Constitution to eliminate the right of same-sex couples to marry. It provides that only marriage between a man and woman is valid or recognized in California. Fiscal impact over the next few years includes potential revenue loss, mainly sales taxes, totaling in the several tens of million of dollars, to state and local governments. In the long run, it will likely have little fiscal impact on state and local governments. If the election were held today, would you vote yes or no on Proposition 8?

^J Proposition 8 is the Limit on Marriage constitutional amendment. If the election were being held today, would you vote YES or NO on Proposition 8?

^K Proposition 8 is the initiative to Eliminate the Right of Same-S Couples to Marry constitutional amendment. Would you vote YES or NO on Proposition 8?

^L Suppose in the next statewide general election a constitutional amendment qualified for the ballot which asked voters to allow same-sex couples to legally marry in California. If a constitutional amendment like this were on the ballot and the election were being held today, would you vote Yes to allow same-sex couples to marry or No to continue to apply marriage laws only to a man and a woman?

fective argument against the proposed Federal Marriage Amendment. In two 2004 *Los Angeles Times* polls, 40% of those who favored civil unions but opposed SSM also opposed a federal amendment against SSM. In a 2003 ABC News poll, 55% opposed SSM, but 60% of SSM opponents said it was “not worth it” to amend “the U.S. Constitution” to make it illegal for homosexual couples to marry. Opponents might have thought it was unnecessary to amend the Constitution, or they might have thought the issue did not rise to the constitutional level. One famous civil union supporter, then-presidential candidate Barack Obama, spoke against writing discrimination into the constitution to explain his opposition to Proposition 8: “I am not in favor of gay marriage. But when you start playing around with constitutions, just to prohibit somebody who cares about another person, it just seems to me that’s not what America’s about. Usually, our constitutions expand liberties, they don’t contract them” (ABC News 2008).

This argument probably carried less weight with respect to the California constitution, however, which is the world's third-longest and one that voters regularly amend. Although many states that have voted on constitutional amendments already had laws banning SSM, Californians could only reinstate their SSM ban by amending their constitution. Domestic partnerships already provided the state's gay and lesbian couples almost all the state benefits of marriage⁵ and Proposition 8 would not affect them. Thus, a "yes" vote on Proposition 8 probably aligned best with the policy preferences of those who preferred civil unions as well as those who opposed any legal recognition of same-sex relationships.

A third possibility was that the political campaign may have turned the balance against SSM. The combined campaigns for and against Proposition 8 spent more than \$80 million, making it the second-most expensive election of the year (after the presidential race) and probably the most expensive campaign ever on a ballot initiative. Public support for gay rights has typically dropped temporarily during other gay rights battles. In the midst of the "gays in the military" debate, fewer people told pollsters that lesbians and gay men should be able to serve openly in the U.S. military than in the years immediately before or after (Yang 1997), and support for SSM temporarily dropped during both the 1996 debate on DOMA and the 2004 presidential campaign, when President Bush endorsed the Federal Marriage Amendment in light of the first SSMs in Massachusetts (Lewis and Oh 2008).

Many saw the same pattern with Proposition 8. In a post-mortem of the campaign, Field Poll director Mark DiCamillo (2008, B5) noted that "Double-digit leads held by the 'no' side in the pre-television advertising stages of the campaign declined precipitously as the TV ad campaigns hit in mid-to-late-September." Many felt that a prize-winning "yes on 8" commercial showing San Francisco Mayor Gavin Newsom saying that SSM was "going to happen, whether you like it or not" was particularly effective in rousing SSM opponents (Matier and Ross 2009). Some gay critics of the "no on 8" campaign blamed the electoral loss on its failure to respond quickly and effectively to "yes on 8" commercials alleging that Proposition 8 would force schools to teach kindergarten children about homosexuality (Weisberg 2008).

Campaigns should not have much impact on attitudes toward "easy," salient morality policy issues (e.g., Mooney 1999), however, and ideology and religion outweigh media exposure and political knowledge in determining opinion on SSM (Becker and Scheufele 2009). The general stability of opinion on SM (Brewer and Wilcox 2005; Yang 1997; Rogers 1998; Lewis and Oh 2008) argues against rapid attitude shifts in response to campaigns. In a study of polling data on 33 ballot measures on the legal status of same-sex couples, Egan (2010) concludes that campaigns have had minimal impact on the outcomes.

The fourth possible explanation is that the campaign may have changed public opinion on Proposition 8 rather than on SSM. Perhaps because SSM was legal in California, voters may have needed time to learn that one had to vote *for* Proposition 8 to vote *against* SSM. As authors, we repeatedly caught ourselves referring to opponents when we meant to say supporters of Proposition 8. Early survey respondents may not have known enough about Proposition 8 to express their preferences accurately, and question framing may have encouraged opposition. Because campaigns educate voters (Gelman and King 2009; Joslyn and Haider-Markel 2000), respondents may have been clearer in November than in June about the relationship between their opinion on SSM and their position on Proposition 8.

Fleischer (2010, 30) analyzes internal polls conducted for the “no on 8” campaign that first asked whether respondents favored or opposed Proposition 8, then followed up with “Just to be clear, is your vote to *eliminate* marriage for gay or lesbian couples in the state of California or *NOT* to eliminate marriage for gay or lesbian couples in the state of California?” He finds that 11.4% of voters cast votes that contradicted their policy preferences, that 16.0% of early voters were “wrong way voters,” that the probability of an “incorrect” vote declined as election day approached, and that SSM opponents were more likely than supporters to make wrong votes. He estimates that if all votes had matched voters’ intentions, Proposition 8 would have passed 54-46 instead of 52-48.⁶ Using polling data for 32 states that voted on SSM, however, Egan (2010) finds little evidence that polls become more accurate as the election approaches or that the amount of underestimation of support for bans is related to the political sophistication of the state’s voters.

Data

To test these possible explanations, we obtained individual-level data from 24 surveys of Californians on SSM. Field Research Corporation conducted 11 of the surveys, the Public Policy Institute of California (PPIC) conducted 10, and the *Los Angeles Times* conducted the other three. In total, 34,000 Californians responded to the surveys. Table 1 shows the dates, polling companies, sample sizes, and questions.

Seventeen of the surveys asked one of four different questions about SSM that did not mention ballot initiatives. Two of those questions asked whether respondents favored or opposed marriage for same-sex couples; the other two gave three options, allowing respondents to express a preference for civil unions over either marriage or no legal recognition. Twelve surveys asked questions about SSM ballot initiatives: four PPIC surveys from 1999-2000 asked about the Knight Initiative, which amended the state’s Family Code rather than its constitution; seven asked five differently worded questions about Proposition 8, with two surveys asking dif-

ferent questions of split-samples; the 2009 Field Poll reversed the question to ask about a proposed initiative to amend the constitution to allow same-sex couples to marry.

To test the “Bradley effect” hypothesis, we ask whether responses on SSM, the Knight Initiative, and Proposition 8 were more sympathetic to marriage equality in the pre-election surveys than were the final votes on those two ballot measures. To test whether principled opposition by some SSM opponents to writing discrimination into the constitution declined over the year, we examine whether support for Proposition 8 increased among civil union supporters over the course of the campaign. To assess the impact of the campaign on support for SSM and Proposition 8, we examine how attitudes toward each issue (SSM and Proposition 8) changed over the year. To see whether confusion declined as the election neared, we examine whether the percentage of respondents who intended to vote “correctly” (i.e., in line with their attitudes toward SSM) increased as the campaign progressed.

Findings

Contrary to the first hypothesis, we find little evidence of a Bradley effect in either 2000 or 2008. Averaged across the four 1999 and 2000 polls, 59.4% said they favored the Knight Initiative, and an additional 5.5% did not know how they planned to vote (Table 1). When we allocate “don’t know” responses proportionately between Favor and Oppose, 63% favored the initiative, consistent with it passing by a 61-39 margin. Attitudes toward the Knight Initiative also mirrored responses on SSM in the 1997 Field Poll. In contrast, six of seven 2008 polls found opponents of Proposition 8 outnumbering supporters by substantial margins, 5 to 7 percentage points even in the last month of the campaign, over-predicting the “no” vote by more than the margin of error. This appears to support a Bradley effect but, in polls that both showed Proposition 8 losing and asked a separate SSM question, more respondents opposed SSM than favored Proposition 8 (typically by 6 to 8 percentage points). If people pretended to oppose Proposition 8 to appear politically correct, why would they admit opposing SSM?

Contrary to the second hypothesis, few voters who opposed SSM took a principled stance against writing that ban into the state constitution at any point in the campaign. The most likely people to have done so would have been those who opposed marriage rights but supported civil unions. Averaging across the three 2008 polls asking about both civil unions and Proposition 8 (Table 2), however, only 27% of civil union supporters opposed Proposition 8, barely more than the 22% of those who opposed any recognition of same-sex relationships who planned to vote against it. As 14% of SSM supporters said they would vote for Proposition 8, a

Table 2. Attitudes toward Marriage and Proposition 8

Position on Proposition 8	Yes	Civil Unions	No	Don't Know	Total
2008 – May, LATimes					
Favor	20.9	68.8	71.0	36.2	50.9
Don't know	4.5	18.2	16.3	46.7	13.0
Oppose	4.5	18.2	12.7	17.1	36.1
Sample size	290	249	245	50	834
2008 – May, Field					
For	14.2	61.2	71.7	28.4	40.7
Don't know	2.4	8.0	3.4	57.2	6.6
Oppose	83.4	30.9	24.9	14.3	52.7
Sample size	474	331	203	44	1,052
2008 – July, Field					
Favor	8.1	68.0	85.4	41.3	42.3
Don't know	2.7	7.8	3.7	41.7	6.3
Oppose	89.2	24.2	11.0	17.1	51.3
Sample size	304	236	103	29	672
2008 – Aug., PPIC					
Favor	16.2	.	66.2	24.1	40.3
Don't know	4.1	.	4.3	35.4	6.0
Oppose	79.7	.	29.5	40.5	53.7
Sample size	719	.	725	89	1,534
2008 – Oct., PPIC					
Favor	14.0	.	74.6	24.3	44.3
Don't know	3.2	.	2.9	37.6	4.8
Oppose	82.9	.	22.5	37.9	50.9
Sample size	733	.	788	83	1,604
2009 – Feb., Field					
Amendment to Allow SSM					
Oppose	0.6	82.6	94.9	33.9	46.6
Don't know	1.5	7.3	3.4	50.7	5.3
Favor	97.9	10.1	1.7	15.3	48.2
Sample size	342	256	141	23	761

Table 3. Trends in Support for Proposition 8 by Attitude toward SSM

Favors SSM	-2.241** (6.5)
Favors civil unions	0.930 (1.60)
Doesn't know	0.403 (0.19)
Time trend for SSM opponents	0.208 (0.55)
Difference in time trend for SSM supporters	-0.900 (1.61)
Difference in time trend for civil union supporters	-1.876 (1.40)
Difference in time trend for those who don't know	-1.124 (0.23)
Constant	0.938** (3.95)
Observations	5,183
Robust z statistics in parentheses	
* significant at 5%	
** significant at 1%	

stance for which we can find no principled explanation, we conclude that confusion is the primary reason.

The logit model in Table 3 also argues against the second hypothesis. We combine data for the five surveys that asked about both Proposition 8 and SSM and use dummy variables to compare three groups (SSM supporters, civil union supporters, and those who didn't know) to those who oppose SSM or any legal recognition (the reference group). We include a time trend and its interaction with the three dummy variables. The only significant coefficient shows that SSM supporters were far less

likely than SSM opponents to plan to vote for Proposition 8. Although neither coefficient is statistically significant, the civil union coefficients are exactly contrary to our second hypothesis. They suggest that civil union supporters started out more likely than opponents of any legal recognition to favor Proposition 8; as time progressed, they appeared to become less supportive, while opponents of any legal recognition trended very weakly toward greater support for Proposition 8.

Contrary to the third hypothesis, the polls showed no decline in support for SSM as the campaign progressed (Table 1). It varied only between 43.4% and 44.4% in the October 2008, June 2007, and June 2006 PPIC surveys. The February 2009 Field Poll shows 44.9% choosing marriage on a three-level question, statistically indistinguishable from the 45.1% and 45.3% in the May and July Field Polls. SSM did not receive majority support on any California survey before the election. In every 2008 poll, a small majority opposed SSM (on the two-level questions) or either preferred civil unions or opposed any legal recognition of same-sex relationships (on the three-level questions).

We found mixed evidence on the fourth hypothesis, that some respondents misunderstood what it meant to oppose Proposition 8. Most respondents told Field they had “seen, read or heard [some]thing about Proposition 8, the state constitutional amendment that would place limits on marriages in California,” with the percentage rising from 62% in July, to 70% in September, and to 96% in October (data not shown in tables). Still, as late as September, 30% of respondents were relying on the pollster to explain Proposition 8. This did not prevent them from expressing an opinion, however, and most of them got it “right.” In July, 94% of those who had never heard anything about Proposition 8 still indicated how they would vote, with 84% of those who opposed any legal recognition planning to vote for the proposition and 89% of those who favored SSM planning to vote against it. Those who said they had heard something about Proposition 8 were only 4 or 5 percentage points more likely than those who had not to make vote choices consistent with their beliefs about SSM.

The way polling firms framed Proposition 8 questions did not seem to encourage respondents to oppose it (Table 1). The Field Poll changed its question repeatedly, making it difficult to assess trends, but when it asked different questions on split samples (in May and September), responses did not differ significantly on the two questions. The PPIC asked a very wordy question that repeated the phrase “eliminate(s) the right of same-sex couples to marry” and even mentioned the fiscal impact, but responses to it were quite similar to those to the various Field questions, and both polling firms found opposition to Proposition 8 falling in September and October.

Still, greater knowledge could cause some voters to change their votes to align better with their preferences (Table 2). Though most respondents’ positions on

Proposition 8 fit with their beliefs about SSM, the number of “errors” is striking: across the polls that asked about both, 8% to 21% of SSM supporters said they would vote for Proposition 8, and 11% to 25% of opponents planned to vote against it.

Using the five polls that asked about both SSM and Proposition 8, we ran several logit models with whether respondents gave “correct” answers on Proposition 8 (answers that matched their beliefs about SSM) as the dependent variable. We restrict the sample to those who favored or opposed same-sex marriage, dropping those who chose the civil unions option or said that they didn’t know. We also dropped those who did not give a clear response on Proposition 8.

Model 1 simply tests whether the propensity to give right responses rose over time. The trend is not significant and has the “wrong” sign, suggesting a drop in the probability of giving a right response between May and October (Table 4). Model 2 tests whether the trend toward correct answers differed between SSM supporters and opponents. We add a dummy variable for whether the respondent favored SSM plus an interaction between that dummy and the time variable. None of the coefficients is individually significant, but both coefficients on the SSM supporter variables are positive and they are jointly significant. This provides some evidence that SSM supporters were more likely than opponents to choose the position on Proposition 8 that matched their preferred policy, consistent with Fleischer’s conclusion that the Proposition 8 vote under-stated Californians’ opposition to SSM.

Models 3 and 4 add a variety of demographic and political variables to test whether the confusion explanation makes sense. Two models are necessary because the Los Angeles Times survey does not include gender or education. As education is a crucial variable, we do not want to drop it, but leaving out an early survey that showed the weakest opposition to Proposition 8 could potentially bias our findings. Neither model shows a significant trend toward correct responses for SSM opponents. Model 3 indicates that, holding these other variables constant, SSM supporters were more likely than opponents to give correct responses. In Model 4, the two supporter coefficients are jointly significant, again suggesting that SSM supporters were more likely than opponents to indicate a position on Proposition 8 consistent with their beliefs on SSM.

Consistent with the confusion hypothesis, the probability of a correct response rose two percentage points with a year of education.⁷ Latinos, Asians, and blacks were more likely than comparable, equally educated whites to choose the wrong response. Because a high percentage of California Latinos and Asians are immigrants, this might suggest that less electoral experience leads to greater confusion. Arguing against this conclusion, though, is the significant negative coefficient on age—older, presumably more electorally experienced voters were more likely to choose the *wrong* position on Proposition 8. Interestingly, party identification had

Table 4. Trends in Likelihood of Wrong Responses on Proposition 8

	Model 1	Model 2	Model 3	Model 4
Time trend for SSM opponents	-0.303 (1.00)	-0.393 (1.01)	0.168 (0.37)	-0.275 (0.66)
Favors SSM		0.188 (0.57)	0.827* (2.11)	0.390 (1.08)
Difference in time trend for SSM supporters		0.724 (1.34)	-0.311 (0.50)	0.392 (0.68)
Education (years)			0.133** (6.20)	
Party identification (1-5)			0.133** (3.78)	0.172** (4.94)
Conservatism (1-5)			0.001 (0.01)	-0.038 (0.71)
Age (years)			-0.007* (2.27)	-0.009** (2.81)
Male (0,1)			0.147 (1.47)	
African American			-0.505** (2.68)	-0.520** (2.65)
Latino			-0.797** (5.58)	-0.898** (6.82)
Asian American			-0.596** (2.77)	-0.384 (1.77)
Other/Mixed			0.303 (0.89)	0.179 (0.60)
Born-again or evangelical Christian			0.214 (1.58)	0.133 (0.97)
Catholic			-0.275* (2.00)	-0.346** (2.61)
Jewish			0.271 (0.71)	0.413 (1.15)

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Other religion			0.214 (1.05)	0.250 (1.25)
No religious affiliation			0.226 (1.29)	0.222 (1.26)
Constant	1.596** (8.54)	1.352** (5.41)	-0.778 (1.44)	1.645** (4.07)
Observations	4,361	4,361	3,535	3,927

Robust z statistics in parentheses
 * significant at 5%
 ** significant at 1%

a strong impact on giving the correct response, with Republicans being 8 percentage points more likely than Democrats to choose the Proposition 8 position that matched their beliefs about SSM. The Republican Party appears to have communicated its position more effectively than the Democratic Party, or Republican Party members may have been more likely to follow the guidance of their leadership.

Although attitudes toward SSM and positions on Proposition 8 did not consistently align better as the election neared, by February 2009, *after* the election and the reaction to it, 98% of marriage supporters said they would vote for a constitutional amendment *to allow* gay and lesbian couples to marry and 95% of marriage opponents said they would vote against it, nearly perfect alignment.

Conclusion

Why did Californians pass Proposition 8? Although the result shocked many SSM supporters, the answer is simple: Proposition 8 passed because a majority of California voters still opposed SSM. Why did California’s top pollsters find opposition to the marriage ban to be stronger than it turned out to be? We find no evidence that some respondents falsely gave “politically correct” responses, unless they were more embarrassed to say they supported Proposition 8 than that they opposed SSM. We find little evidence of SSM opponents not wanting to raise the prohibition to a constitutional level: civil union supporters were nearly as likely to favor Proposition 8 as those who opposed any legal recognition of same-sex relationships (and SSM supporters were nearly as likely to favor Proposition 8 as civil union supporters were to oppose it). We find no change in support for SSM itself as a result of the campaign: it was as high in October 2008 as throughout the previous three years.⁸ Instead, we find substantial numbers of people telling pollsters they opposed Proposition 8 even though they did not favor SSM. We could find little explanation for this other than misunderstanding. We tentatively conclude that the \$83 million

Proposition 8 campaigns increased Californians' understanding enough that fewer voters were taking positions that diverged from their beliefs about marriage by the end of the campaign.

What are the implications for Minnesota? The variety of poll findings already suggest that surveys will give only muddy predictions of the outcome, but we find little evidence from the California case that survey respondents are unwilling to state a "politically incorrect" opinion against SSM or that the campaign for and against the amendment will have much impact on support for SSM in the state. If Minnesota voters are confused about whether the constitutional amendment will create SSM or erect stronger barriers against it (which seems unlikely), the campaign may help clarify their thinking. The California case suggests that the final vote will closely reflect Minnesotans' support for SSM, especially because the amendment is on the presidential rather than an off-year ballot and voters will be a reasonably representative sample of registered voters.

Marriage equality supporters might gain from some reluctance to amend the Minnesota constitution, as Minnesotans amend it less frequently than Californians do theirs. The state already has a law banning SSM, which gives civil union supporters little reason to favor the amendment in the absence of a fear of "activist judges." On the other hand, support for SSM is probably 7 or 8 percentage points lower in Minnesota than in California (Lax and Phillips 2009; Lewis and Oh 2008), making defeat of the amendment harder. Recent trends, however, suggest that support might be rising fast enough that a majority of Minnesota voters will favor SSM by Election Day. Gallup finds that support for SSM has increased 13 percentage points nationally since 2008 (Newport 2011), the Pew Research Center finds a 10-point rise since 2001 (Ten Years of Changing Attitudes on Gay Marriage 2011), and the Public Religion Research Institute sees an 18-point increase since 1999 (Jones, Cox, and Laser 2011). Our analysis of 12 national polls from 2009 and 2010 suggests that about 45% of Minnesotans supported SSM during that period,⁹ 48% if the "don't know" responses are allocated between supporters and opponents. If Minnesota follows national trends, the state may give marriage equality supporters the victory they seek.

References

- ABC News. 2008. Obama Says He Is Against Same-Sex Marriage But Also Against Ending Its Practice In Calif .
- Arceneaux, Kevin. 2002. "Direct Democracy and the Link between Public Opinion and State Abortion Policy." *State Politics and Policy Quarterly* 2 (4): 37-387.
- Becker, Amy B., and Dietram A. Scheufele. 2009. "Moral Politicking: Public Attitudes Towards Gay Marriage in an Election Context." *The Harvard International Journal of Press/Politics* 14 (2): 186-211.
- Brewer, Paul R., and Clyde Wilcox. 2005. "The Polls—Trends: Same-Sex Marriage and Civil Unions." *Public Opinion Quarterly* 69 (4): 599-616.
- Burstein, Paul. 2003. "The Impact of Public Opinion on Policy: A Review and an Agenda." *Political Research Quarterly* 56 (1): 29-40.
- Citrin, Jack, Donald Philip Green, and Dad O. Sears. 1990. "White Reactions to Black Candidates: When Does Race Matter?" *Public Opinion Quarterly* 54 (1): 74-96.
- Davies, Haley. 2007. "Legislature OKs Same-Sex Marriage Bill; Governor Expected to Veto." *San Francisco Chronicle*, September 8.
- DiCamillo, Mark. 2008. "Why Prop. 8 Confounded Pre-Election Pollsters." *SF-Gate*, November 10.
- Donovan, Todd, and Shaun Bowler. 1998. "Direct Democracy and Minority Rights: An Extension." *American Journal of Political Science* 42 (3): 1020-1024.
- Egan, Patrick J. 2008. *Is There Really a "Brady Effect" for Sex Marriage Initiatives?*: New York University.
- Egan, Patrick J. 2010. *Findings from a Decade of Polling on Ballot Measures Regarding the Legal Status of Same-Sex Couples*. New York University.
- Erikson, Robert S., Gerald C. Wright, and John P. McIver. 1993. *Statehouse Democracy: Public Opinion and Policy in the American States*. New York: Cambridge University Press.
- Fleischer, David. 2010. "What the Heck Happened? Facts, History, and Lessons Learned." LGBT Mentoring Project.
- Gamble, Barbara S. 1997. "Putting Civil Rights to a Popular Vote." *American Journal of Political Science* 41 (1): 245-269.
- Gelman, Andrew, and Gary King. 2009. "Why Are American Presidential Election Campaign Polls so Variable When Votes Are Predictable?" *British Journal of Political Science* 23 (4): 409-451.
- Gerber Elisabeth R. 1996. "Legislative Response to the Threat of the Poplar Initiative." *American Journal of Political Science* 40 (1): 99-128.

- Hagen, Michael G., Edward L. Lascher, and John F. Camobreco. 2008. "Response to Matsusaka: Estimating the Effect of Ballot Initiatives on Policy Responsiveness." *The Journal of Politics* 63 (04): 1257-1263.
- Haider-Markel, Donald P., Alana Querze, and Kara Lindaman. 2007. "Lose, Win, or Draw? A Reexamination of Direct Democracy and Minority Rights." *Political Research Quarterly* 60 (2): 304-14.
- Hauser, Tom. 2011. "SURVEYUSA: Gay Marriage Poll Shows Possible Close Vote." *KSTP News*, May 25.
- Herek, Gregory M. 2008. "Prop. 8 Post-Mortem: Was There a Gay Bradley Effect?" In *Beyond Homophobia*.
In re Marriage Cases. 2008.
- Jones, Robert P., Daniel Cox, and Rachel Laser. 2011. *Committed to Availability, Conflicted about Morality: What the Millennial Generation Tells Us about the Future of the Abortion Debate and the Culture Wars*. Washington, D.C.: Public Religion Research Institute.
- Joslyn, Mark R., and Donald P. Haider-Markel. 2000. "Guns in the Ballot Box: Information, Groups, and Opinion in Ballot Initiative Campaigns." *American Political Research* 28 (3): 355-78.
- La Corte, Rachel 2009. "Voters Approve 'Everything but Marriage' Bill." *KOMO News*.
- Lascher, Edward L., Michael Hagen, and Steven A. Rochlin. 2009. "Gun Behind the Door? Ballot Initiatives, State Policies and Public Opinion." *The Journal of Politics* 58 (03): 760-75.
- Lax, Jeffrey R., and Justin H. Phillips. 2009. "Gay Rights in the States: Public Opinion and Policy Responsiveness." *American Political Science Review* 103 (3): 367-386.
- Lewis, Daniel C. 2011. "Bypassing the Representational Filter? Minority Rights Policies under Direct Democracy Institutions in the U.S. States." *State Politics & Policy Quarterly* 11 (2): 198-222.
- Lewis, Gregory B. 2003. "Contentious and Consensus Gay Rights Issues: Public Opinion and State Laws on Discrimination and Same-Sex Marriage." In *Association for Public Policy Analysis and Management*. Washington, D.C.
- Lewis, Gregory B., and Charles W. Gossett. 2008. "Changing Public Opinion on Same-Sex Marriage: The Case of California." *Politics and Policy* 36 (1): 4-30.
- Lewis, Gregory B., and Seong Soo Oh. 2008. "Public Opinion and State Action on Same-Sex Marriage." *State and Local Government Review* 40 (1): 42-53.
- Lockyer v. City and County of San Francisco. 2004. In *California Reports, 4th Series*: California Supreme Court.
- Matier, Phil, and Andrew Ross. 2009. "Prop 8 Adman Win, 'Whether You Like It or Not.'" *San Francisco Chronicle*, April 6, B-1.

- Matsusaka, John G. 2001. "Problems with a Methodology Used to Evaluate the Voter Initiative." *Journal of Politics* 63 (4): 1250-1256.
- McKinley, Jesse. 2011. "Sam-Sex Vote Unlikely in California." *New York Times*, June 12.
- Monogan, James, Virginia Gray, and David Lowery. 2009. "Organized Interests, Public Opinion, and Policy Congruence in Initiative and Noninitiative U.S. States." *State Politics and Policy Quarterly* 9 (3): 304-24.
- Mooney, Christopher Z. 1999. "The Politics of Morality Policy: Symposium Editor's Introduction." *Policy Studies Journal* 27 (4): 675-80.
- Newport, Frank. 2011. "For the First Time, Majority of Americans Favor Legal Gay Marriage." In *Gallup*.
- Page, Benjamin I., and Robert Y. Shapiro. 1983. "Effects of Public Opinion on Policy." *The American Political Science Review* 77 (1): 175-90.
- ProtectMarriage.com. 2008. New Study Shows Polling Significantly Understates Support for Traditional Marriage.
- Public Policy Polling. 2011. *Minnesotans like Dayton, split on gay marriage* [cited June 8, 2011]. Available from <http://www.publicpolicypolling.com/pdf/PPP_Release_MN_06011118.pdf>.
- Rogers, Marc A. 1998. *Americans' Attitudes toward Gays and Lesbians since 1965*, Government, American University, Washington, D.C.
- Stassen-Berger, Rachel E. 2011. "Minnesota Pol: Support falls for ban on gay marriage." *Star Tribune*, May 13.
- Ten Years of Changing Attitudes on Gay Marriage. 2011. In *The Pew Forum on Religion & Public Life*.
- Weisberg, Luis. 2008. "Proposition 8: What Went Wrong." In *365gay.com*
- Yang, Alan S. 1997. "The Polls-Trends: Attitudes toward Homosexuality." *Public Opinion Quarterly* 61 (3):477-507.

Notes

¹ In 2006, Arizona voted down an amendment that also banned civil unions, but it easily passed a narrowly worded amendment two years later. (Proposition 107 in 2006 declared, “The State of Arizona and its cities, towns, counties or districts shall not create or recognize a legal status for unmarried persons that is similar to marriage.” Tucson granted domestic partner status to both same-sex and different-sex couples, and concerns about the effects of the initiative on heterosexual couples probably led to its 48-52 defeat. Proposition 102 in 2008 merely defined marriage as “only a union of one man and one woman“ and passed 56-44.)

² Lax and Phillips (2009), however, find 15 percentage point increases in support for same-sex marriage in a dozen states, including California, from 1995 to 2009.

³ Recall that “opposition” to Proposition 8 means that one was against amending the constitution to prohibit same-sex marriage, not against same-sex marriage.

⁴ Tom Bradley, the black mayor of Los Angeles, lost the 1982 gubernatorial election despite leading in the polls in the final weeks of the campaign. Polls also overstated support for black candidates for governor of Virginia in 1989 and for mayor of New York in 1989 and 1993 (Egan 2008).

⁵ The Defense of Marriage Act (DOMA) prevents any federal benefits for same-sex marriages.

⁶ In the January 2000 PPIC poll, same-sex marriage supporters appeared to be more confused than opponents: 24% of the former intended to vote for the Knight Initiative, but only 11% of the latter planned to vote against it.

⁷ In translating the logit coefficients into probability changes, we are holding all other independent variables at their means.

⁸ Fleischer (2010) finds more evidence that the “yes on 8” campaign decreased support for SSM in the short term.

⁹ The polls included 17,600 respondents, including 400 in Minnesota. Running logit analysis with support for SSM as the dependent variable, with 11 dummy variables for the surveys and 50 dummy variables for the states, we found Minnesota ranked 17th in favoring SSM, with support about 6 percentage points higher than for the nation as a whole. If a majority of Americans now favor SSM, the same should be true for Minnesota.