

CRISIS WITHOUT EXIT

What's the worst thing about California's current fix?

The worst thing is not the decline in its once great public schools. It's not the tuition hikes at state universities that make college unaffordable for too many. It's not the cuts to health programs and parks and local governments. And it's not the decaying state water system. Nor is it that the prisons are so overcrowded and unhealthy that the federal courts have stepped in to oversee them. It's not the endless cycle of elections that never seems to leave time for governance. It's not the billions in borrowing that will hurt future generations, and it's not the billions more in retiree pension and health benefits that there's no money to pay for. It's not the joblessness or the lagging economic growth or the big declines in tax revenues (other states, after all, share these problems, if not on California's scale). And it's not even the multi-billion-dollar state budget deficits that persist, and the never-ending cycles of budget cuts that ensue.

No. The worst thing about California's fix is that, under the state's current system of government, these problems can't be fixed.

THE COLLAPSE OF TRUST

Californians know the system is not working. As state government hurtled toward insolvency in mid-2009, voter approval of the legislature's performance fell to the lowest level in the nearly three decades the Field Poll has been taking such soundings. Although voter regard for public institutions and public officials tends to track the health of the economy, there is more to the current dissatisfaction with the California legislature than unhappiness over the state paying bills with IOUs. The 2009 approval rating for the legislature, in which Democrats, Republicans, and independents showed striking agreement, was lower by half than in any previous state fiscal crisis. Voters don't trust the executive branch; polls showed the governor, a popular movie star elected twice by big margins, with an approval rating of less than 30 percent. Roughly four in five state residents told pollsters their state is on the wrong track. Seventy-three percent of those surveyed by the Public Policy Institute of California in 2009 said the state was run by a few big interests looking out for themselves. Californians, always a cynical lot, had never been more cynical.

Gale Kaufman, a longtime political consultant to Democrats and labor unions, conducted extensive focus groups in the fall of 2009 and found that Californians "are as frustrated as they have ever been. . . . A huge amount of disappointment, but it isn't anger, it isn't 'throw the bums out . . . ' One woman said, 'It's beyond anger.' There's a level of frustration—they just watch what's going on and it doesn't seem like anything they do makes it better at all."¹

The trouble for the state is that extreme frustration has not produced any sense of common purpose. The same surveys that document their frustration show that Californians are unsure how to fix their state. Nearly every reform idea has less than majority support. Californians have a long list of problems they want addressed—schools, health care, transportation, taxes, government spending, pensions—but they hold to no clear consensus on what to do about them. "Everybody knows what's wrong," said Phil Isenberg, a former Democratic legislative leader and Sacramento mayor. "But nobody can decide what right is."²

WHAT WOULD A VISITOR SAY?

Maybe we Californians have such a hard time figuring out how to fix the state because we are too close to the problem. How might an analyst sent here from another world—think of him as an extraterrestrial Alexis de Tocqueville, well-read in California history and deeply versed on political practices elsewhere on this globe—diagnose California’s ailments?

Like many homegrown seers, he would surely note California’s polarization. This is no longer Earl Warren’s California of the 1940s or Pat Brown’s California of the early 1960s, when liberals were sometimes Republicans and conservatives were often Democrats. Californians have swung their partisan identities more in line with their ideological preferences and clumped themselves into communities of the like-minded, creating a new political geography, with a solid Pacific sea of Democratic blue lapping a Republican red inland of valleys and mountains. But our analyst would be quick to remember that the same polarization has occurred in states across the nation without producing the same governing paralysis that besets California.

So he would look deeper, to factors unique to California. He would see that California has outgrown its inherited political institutions, from its legislature to its election system. Its population, now more than 38 million, has soared fortyfold since the 1879 constitutional convention molded state government into its current shape; sixteenfold since Hiram Johnson gave birth to the initiative process in 1911; twofold since the last major constitutional revision in the 1960s. He would also note the century-and-a-half-long flood of immigrants to the state, from all corners of the nation and earth, who turned California into a society of unrivaled human variety. These demographic upheavals have distanced representatives in Sacramento from the represented and strained the ability of old institutions like the state’s tiny legislature to accurately reflect the richness of California’s tapestry.³

On closer examination, though, he would note a more troubling malady: the problem is not one of the body but of the brain. Californians suffer from a deep political schizophrenia.

The extraterrestrial would see that California is governed not by one system but by three.

On the one hand, he would see a system of single-member legislative districts elected by plurality. This structure is well known to restrict representation to the two major parties, exaggerate the majority party's strength, empower the ideological bases in each party, and render the votes of millions of Californians essentially moot in most legislative elections. The system's driving principle? Create a majority and let it rule.

On the other hand, he would see, superimposed on the first system, a second political system: a constitutional web of rules requiring supermajority legislative agreement about the very subjects—spending and taxes—over which the parties and the electorate are most polarized. The driving principle of this second system? Do nothing important without broad consensus. In practice, let the minority rule.

And then on the third hand (here's where you need an extraterrestrial Tocqueville), he would see that, in response to gridlock, voters have repeatedly used the initiative process, another majoritarian institution, to override the consensus principle, which was itself put in place to check the majority-rule principle.

The collision of these three systems and two contradictory governing principles—one majoritarian, one so focused on consensus that it amounts to minority rule—has produced gridlock, rising debt, and political schizophrenia. And that in turn has led to all the expected symptoms in California, including apathy, delusions, disordered thinking, and the citizen anger seen in polls and Kaufman's focus groups.

California has become a place of paradoxes. The state's politics are the most explicitly democratic of any state, but too much of the government seems beyond the reach of democracy. California literally teems with governments—there are thousands, from the state to the cities and counties and water districts—but in practice the state often feels ungoverned. California's system, with its hundreds of commissions and agencies, gives authority and power to so many people that it is never quite clear who is in charge. And the governing system has so many different structures

that, to the citizen who wishes to engage it and to the shrinking news media that seek to report on it and explain it, it seems to be without shape.

California doesn't work because it can't work.

THE NEW HOMEGROWN MAJORITY

California's government has *never* quite worked. It had no Founding Fathers. It had miners who rushed here and made a state suddenly, in less than a year. The California they created had no settled system of government. It was an improvisation, a hastily constituted mishmash of Iowa's state constitution and American, Mexican, and Spanish law. The system was unsettled at the beginning. It is unsettled now.

In generation after generation, this has not mattered all that much. California has not had to solve its problems because it could outgrow them. Before it had to reckon with its busts, the next boom would deliver new wealth and new residents. Throughout its history, huge majorities of Californians were born somewhere else. Transplants from the rest of the country and from around the world would arrive so fast that by the time anyone bothered to suggest how to fix the state, California had become a larger, newer, and richer state. It was a place defined by its arrivals.

Being a state of arrival has, in turn, warped California's political talk, long marked by anxious narratives of comings and goings. California gazes at itself in the mirror and worries about its attractiveness: will they keep coming (or might they even leave)? In 1878, when Californians first dared to think about regulating and taxing the railroads, opponents warned that, if such measures passed, "we should be shunned by all the world. The emigrant would avoid us. Capital would keep away from us."⁴ In that tradition, the *Sacramento Bee* in 2009 breathlessly reported that, from 2004 through 2007, 275,000 people left California for "the old Dust Bowl states of Oklahoma and Texas," twice as many as went the other way.⁵ Legislative Republicans held a 2009 hearing in Reno to showcase former California business owners who said they had been driven

to Nevada by a hostile business climate. In worse economic shape than California, Nevada was no doubt grateful for the free publicity.

Yet even while doubting its own charms, California has regularly worried that, in the words of the infamous Pete Wilson gubernatorial campaign ad of 1994, with its shadowy images of unauthorized immigrants dashing through traffic at the border, “They keep coming.” In his famous 1868 essay “What the Railroad Will Bring Us,” Henry George weighed the price of opening California to the world: “Would we esteem ourselves gainers if New York, ruled and robbed by thieves, loafers and brothelkeepers; nursing a race of savages fiercer and meaner than any who ever shrieked a war-whoop on the plains; could be set down on our bay tomorrow?”⁶ During the Depression, the Los Angeles police chief sent 125 cops to the Oregon and Arizona borders to set up a “bum blockade” to keep out the “indigent influx.” The Chamber of Commerce wrung its hands over the “horde of undesirables” migrating to the state: “200,000 are here—more keep coming—they’ll soon be voters—what can we do?”⁷ Throw in a reference to “illegals” and “anchor babies” and you have a ready-made tweet fit for any conservative Twitter stream.

These familiar narratives belong to a California that no longer exists. The state’s population still grows by more than 400,000 new residents each year. But net migration from other states and from overseas, once the main source of California’s growth, now accounts for less than one quarter of new residents (an average of about 102,000 in the first decade of this century; twenty years ago, in the late eighties, annual net migration topped out at about 370,000). Today most new Californians arrive by way of the maternity ward. The vast majority of the annual increase comes from what demographers call “natural increase,” the difference between births and deaths, a figure that has averaged more than 320,000 in recent years.⁸

As a “magnet” for people across the country, California now ranks in the bottom half of states.⁹ And its percentage of migrants—people from both other states and other countries—has declined. In 1970 some 76.5 percent of California adults over the age of 25 were from somewhere else;

in 2007 the percentage had declined to 63.5 percent. This statistic, called “lifetime migration,” is one measure of a state’s ability to attract and retain outsiders. The only state to see a greater decline in its percentage of migrants over the past four decades? Michigan.¹⁰

If California is less attractive to migrants, it maintains a stronger hold than ever over its natives. Only half of American adults over the age of 25 resided in their state of birth in 2007. But two-thirds of California natives live in California. This loyalty is particularly strong among California’s native-born Latinos and Asians, more than 80 percent of whom remain residents of the state. Only four other states—Georgia, North Carolina, Texas, and Wisconsin—can boast of greater loyalty among their native born.¹¹

If these trends hold, by the year 2040 a majority of California’s middle-aged citizens will be native to the state. Or, as the demographer Dowell Myers has written, California is in the midst of a “surprising transformation” from “a migration magnet that supplies its needs from outside the state to a more self-contained society that depends on its present members. We have become a land of settled and increasingly committed residents who share a future together.”¹² Today’s teenagers and young adults will form California’s first homegrown majority.

This new California is thus more Californian—and more a place apart. This sort of place won’t be saved by the arrival of outsiders and the growth they spark. It will need to do a better job of educating its own. It will have to build its own new businesses. And it will need to be a place governed well enough to retain its children, so that they become employers and parents and taxpayers.

California must find some way to govern itself, because, for the first time, Californians must save themselves.

THE NEW REFORMERS

At the end of the first decade of the twenty-first century, Californians of all stripes were proposing schemes that, they said, would save the state.

Leading labor unions and Internet-based progressive groups were organizing ballot initiative campaigns to overturn various limits on tax increases. Businesses were planning measures to undermine those unions' ability to spend politically, and to limit public-employee pensions. Right-wing populists thought that busting the weak if full-time state legislature back to part-time status would prove an elixir for the state's woes.

The riskiest attempt—at once the most promising and the most perilous—came from the Bay Area Council, a policy group backed by businesses such as Google. The council suggested that the state's operating system needed a complete rewrite. In a hastily drafted op-ed for the *San Francisco Chronicle*, the council's president, Jim Wunderman, proposed that a constitutional convention be called for that purpose. But many of these businesses, concerned about the many unknowns in such an ambitious enterprise, declined to give money to ballot initiatives to call such a convention, and the effort was put on hold in February 2010.

The legislature, concerned about all these efforts, convened its own joint committee, the Assembly and Senate Select Committee on Improving State Government, with the goal of holding off the efforts of others by coming up with a few reforms of its own. More than \$16 million was committed to a new group called California Forward, a combined project of some of California's wealthiest foundations to produce a series of initiatives for reforming the budget process, elections, and local government.¹³

As this book went to press, it was far from clear whether any of these dozens of proposals would bear fruit. But the attempt—indeed all the reform proposals—had one salutary benefit: the question had been called. How can California cure itself?

NEEDED: A GREAT UNWINDING

Curing California will require more than weak reform medicine administered to address only symptoms. Instead, we must accept the extra-terrestrial's diagnosis of systemic failure.

The three conflicting systems must be integrated into one system that is responsive to democratic votes and makes clear who is responsible when things go wrong. The state's single-member, winner-take-all legislative elections must be replaced with votes that provide responsibility and real choice to all citizens. The consensus-based, supermajority-mad rules for making budget and tax decisions must fall in favor of a system that allows for risk-taking, prompt governance, and democratic decision-making in a polarized age. The state's initiative process must be redesigned as a tool to put direct and democratic pressure on elected officials, rather than as a method for circumventing them recklessly.

The whole system must be rethought with an eye to the sheer scale of California, a place grown too large and too various to be successfully governed from the top. Democracy and accountability would be the buzzwords. Windows must be opened so Californians can see in, peer out, and keep an eye on each other. This will require a Great Unwinding of old rules.

In place of a system in which we clamp shackles on a legislature we do not believe to accurately represent our views, and then grow furious at the inevitable gridlock, our Tocqueville would tell us to substitute a system that makes our government more representative and responsive, so the shackles are no longer needed.

Such a new state government would not by itself cure California's worst problems, of education and health care and the economy and prisons and water. But it would fix the worst thing about the worst problems. It would give the state's next generation of improvisers, a homegrown generation at that, enough medicine to have a fighting chance.