

# WIDE OPEN TOWN



## SACRAMENTO IN THE ERA OF RECALL

JOHN KURZWEIL

SACRAMENTO HAS once more become an open city. The left-wing domination of the last five years is ended, but it has by no means been replaced by conservative control. Where Republicans had *no* say, they now have a *chance* to influence government; where Democrats did mostly what they pleased, they now must fight. That is the news emerging from the opening weeks of the Schwarzenegger administration. That is the sea change the recall (and the five years of misrule that preceded it) have so far brought to California.

Both Parties have seen success and failure in

these opening weeks, and Republicans, at least, show signs of learning from their early mistakes. The GOP gained the political momentum with the Davis recall and election of Arnold Schwarzenegger, and kept it through his reversals of the car tax hike and licenses for illegals. Republicans then dropped the reins with the governor's needless compromise (not to say collapse) on the spending cap/bonds issue, but regained it with his bold use of emergency executive powers to divert spending to local governments (mainly for police and fire protection) from less vital and more easily trimmed government operations (*i.e.*, the Department of Motor Vehicles). Besides averting a local government funding crisis, this deft ma-



never defeated a Democrat squeeze play designed to set the governor, already weakened by his retreat on the spending cap, further back on his heels. Instead, Schwarzenegger surprised the Democrats, setting *them* back on their heels, where they have remained, more or less, ever since. In Sacramento, as Holmes used to say, the game is afoot, and either Party can play.

This game is actually a pair of related contests — one over policy, the other over politics — that parallel and intimately affect one another. On policy, Republicans have so far won their car tax and license victories, although these were really already won in the recall itself, their formal reversal being more a matter of cashing in one's chips, the game being over. On their first major effort to *shift* policy under Schwarzenegger — to cap spending — Republicans were rebuffed. This early skirmish involved this ballgame's key policy issue. As described by the left-wing *L.A. Weekly*, the spending cap battle pits those who think of "government as a solution rather than a root problem" against "the philosophy that the best destination for a tax dollar is to remain in the pocket of the taxpayer." Republicans' drive for a cap, the *Weekly* explained, "almost succeeded in using the budget crisis to reshape the very concept of government in California for years to come. Even when the economy improved and tax revenues rose," the paper's socialist writer lamented, "the collected dollars could have gone only to a 'Budget Stabilization Fund,' for such purposes as retiring debt or tax refunds. But not for expanded services or programs." Spending every available dollar to "expand services and programs" as soon as "the economy improved" was, of course,

exactly how Davis and the Democrats, beginning in 1999, set California on the road to fiscal chaos. Republicans missed this early opportunity for major reform in the policy war, primarily through missteps in

the parallel *political* battle. As I wrote above, they have since largely recovered the political momentum; it remains to be seen whether they have learned enough from this episode to win next time on the critical issue of restraining a government that keeps forgetting it exists to *serve* the people, not consume them.

This early ebb and flow in the political battle deserves a closer look.

## Politics — round one

Fresh from a string of quick triumphs beginning on October 7, in early December the Schwarzenegger administration gave GOP legislators "marching orders," as one lawmaker put it, to put up a stout defense in the Legislature of the governor's spending cap proposal, while doing everything possible to "chew up" the Democrats' alternative plan. The liberals' alternative consisted mainly of requirements that the state pass a balanced budget without new borrowing (excepting, as a one-time measure, the proposed current year \$15 billion in bonds) and that a percentage of revenues fund a reserve account beginning in mid-2006. Republicans found it easy to "chew up" this plan, presented as a bulwark against irresponsible spending. As Jean Ross of the non-partisan California Budget Project reportedly said after Schwarzenegger signed off on what was, in the main, this very same Democrat proposal, "The reporters who haven't read the budget agreement are the only ones who are calling it a spending cap." Reportedly, she said it contained *no* cap, only "a mechanism for funding a reserve."

Back in the first week of December, enthusiastically obeying their "marching orders," Republican lawmakers had pointed out that such a "cap" was simply irrelevant to the problem the entire exercise was supposed to address: officials' habit during times of surplus of irresponsibly committing the state to huge new spending that proves unsustainable when revenues contract. In Tom McClintock's now-famous encapsulation: 21, 25, 40 — during Davis's first four years in office, California saw a combined rate of population and inflation growth of 21 percent, state revenue growth of 25 percent, and state spending growth of 40





percent. When the economy slowed down, no one in a position to shape policy proposed to go *back* to spending levels that lowered revenues could justify; and if anyone so placed *had* done so, he would have been ignored or, if necessary, trampled.

The notion that government operations can and should expand and contract in harmony with its revenue flow ignores political reality. Every new dollar going out immediately creates its own constituency demanding that the flow go on forever. Those receiving the wealth do not shoulder the burden of creating it, and therefore so see no reason that it should

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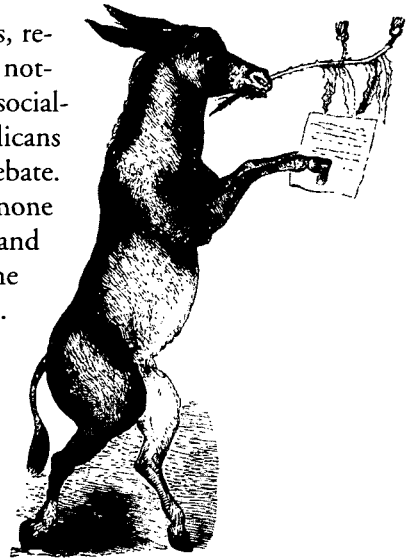
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diminish just because the productive sector is suffering a contraction. This is socialism's *always* fatal flaw and, human nature remaining unresponsive to efforts to change it, the flaw *always* operates in just this way. The Assembly Budget Committee's chairman, Democrat Jenny Oropeza, supplied a demonstration when, during the early December debate, she said her Party liked the \$15 billion in bonds the governor proposed, but that "compromise" would be required on spending controls. GOP Assemblyman Ray Haynes answered that the bonds *were* the compromise. In the Senate, Tom McClintock pointed out that "There are only three ways to remedy a deficit. You can raise taxes — in a state that already suffers one of the heaviest tax burdens in the nation. You can borrow money — in a state that is already up to its eyeballs in debt. Or you can reduce spending — in a state that is now spending a larger portion of people's earnings than at any time in its history. I would think the choice

would be self-evident." To normal people, yes. Not to those like Jenny Oropeza viewing reality through socialism's cock-eyed vision.

But most Californians, reports to the contrary notwithstanding, are not socialists. Haynes says Republicans were winning the debate. "We could tell from phone calls to our offices and from the press that the public was getting it. Another week, and the Democrats would have caved." Friday of that first week, the governor delivered a pep talk to the GOP caucus, urging them to fight on, telling them "we're going to get the cap we're after."



But then Schwarzenegger flew to a weekend retreat of the state's Congressional delegation and was told, reportedly by veteran advisor to Republican chief executives George Shultz, now of the Hoover Institution, and others, that he *had* to get a deal. For Republicans, this devotion to the imperative that a deal *must* be made seems almost as intractable as the left's conviction that government-must-grow-forever. Ronald Reagan on at least three occasions as governor and president agreed to tax increase deals with the opposition that betrayed his mandate and deeply wounded his political strength. George Bush I fatally undermined his presidency by betraying *his* mandate ("read my lips") in a foolish tax raising deal with Democrats. Pete Wilson, in a tax hiking "compromise" with his opponents his first year in office (one he himself afterwards likened to General George Custer's adventures in the valley of the Little Big Horn), managed to end 30 straight years of constantly increasing state revenues. His 1991 tax deal produced the first year-to-year drop in revenues the state had seen



since 1962. Like these previous GOP chief executives, Arnold Schwarzenegger, on returning



to Sacramento, closeted himself with the Democrat foe, ignored the Republican lawmakers who the previous week had climbed out on a limb on his instructions, and cut yet another bizarre "deal" that effectively sawed the limb off. Legislative Republicans suddenly found themselves, for the sake of Party unity

and to maintain the governor's position as their leader, required to vote "aye" on the very plan they had enthusiastically "chewed up" only a few days before. In a small cock-a-doodle-do of victory, state Senator Sheila Kuehl said of the spending cap, "I think he [Schwarzenegger] came 'way over to the Democrat side. He moved enormously. There's no question." No question existed either, despite a strained surface placidity, that the "good feeling" among legislative and administration Republicans created by Davis's ouster had taken a pounding and was just short of shattering.

### Politics — round two

Democrats, emboldened, naturally, immediately began organizing a power play intended to embarrass the governor still further while squeezing him into backing a half-cent sales tax increase. The same night the Legislature passed the impishly-titled "balanced budget" amendment, Republicans tried to bring up pending legislation to replace \$2.5 billion for local governments, including money for local police and fire services, that had been eliminated when the tripling of the car tax was rescinded. Although this funding was provided in a Democrat bill, authored by Assemblyman Alan Lowenthal, the majority Party greeted it with an emphatic "no" and promptly adjourned. Assembly Speaker Herb Wesson told reporters the governor would have to "compromise" to get his local government funding; he'd have to back

the half-cent sales tax hike. Democrats said the Legislature would be called back "when we have a deal." A drum-beat then commenced, emanating from local government officials up and down the state, predicting the collapse of civil order if the governor did not do "whatever it takes" to win the funding. This could have been the collapse of the entire recall/Schwarzenegger mandate had things played out according to the Democrat script. But the governor tore up the script, as any conscientious actor, facing such poor plotting, would have done.

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one GOP lawmaker told the governor's people he could be counted out of any "deal" to support a sales tax hike. He predicted that an effort to force one through would end "all good feeling" between legislative Republicans and the corner office.

Schwarzenegger evidently also saw that a bold stroke was needed. When Department of Finance Chief Deputy Director Michael Genest suggested he might exercise special discretionary powers over state agencies' budgets (given the governor in the current ['03-'04] budget bills), he acted. Never, of course, expecting to see these powers used by a Republican, Democrat budget negotiators last year (in AB 1765, sec. 27, and AB 1756, sec. 56) gave Gray Davis au-



thority to declare, if necessary, a fiscal “emergency,” automatically authorizing agency spending cuts of up to 5 percent *without legislative approval*. Democrat refusal to pass Lowenthal’s car tax “backfill” legislation had created just such an emergency, as attested by the howls coming from (mostly Democrat) local officials from Crescent City to San Diego. On December 17, word came the governor would declare the emergency next day, diverting the savings to fund local government, most importantly police and fire services.

“I was elected by the people of this state to lead,” the governor said. “Since the legislative leadership refuses to act, I will act without them. We must protect the people in this state and give the cities and counties the money we owe them.” As to policy, this action immediately ended an entirely artificial “crisis.” No one, to my knowledge, so much as hinted that anything serious, much less seriously bad, would result from the relatively small necessary cuts to other agencies (which, in any event, will probably prove to be mere reductions in scheduled increases).

As to politics, the results were immediate and dramatic. “Democrats stunned by Schwarzenegger use of ‘emergency’ powers to cut spending, fund cities” reported *CPR’s* companion publication, *Capitol Watch*. Democrat Assemblyman Joe Nation told reporters, “My reaction, like a lot of my colleagues, was one of surprise.” The opposition was not surprised to find that the governor possessed the authority he exercised — conservatives in and out of the Capitol had been urging him to employ it since October 7 and Democrats certainly were aware of what they themselves had put in the budget. No, the surprise was that any Republican executive would actually *use* the authority. Bear in mind, GOP chiefs from Reagan to Wilson had established a virtual culture of cave-in whenever negotiating became tough (one the new governor had reiterated only days earlier). “Legislative Democrats evidently thought they had Schwarzenegger on the run” after the bonds deal, *Capitol Watch* reported. Then, caught flat-footed by the governor’s bold stroke, “Democrats reportedly spent Thursday morning in closed-door meetings

considering how to respond.” The Capitol consensus is that they are still considering.

Republicans were instantly revitalized. They resumed calls for detailed analyses of state programs’ efficiency and effectiveness as the key to taming Sacramento’s metastasizing profligacy. They faulted lack of accountability for the state’s spending crisis. “Take, for example, a state jobs program,” said one Sacramento policy expert. “The program’s purpose is to place people in jobs, right? But no one in government knows — because no one asks — how much we are spending for how much success. A typical government ‘audit’ establishes that the agency was told to spend X dollars to train X number of people, that it spent the money and put the mandated number through training, and that’s it. No cost-benefit analysis is done, no effort is made to identify the most efficient methods and people or the least efficient, no one even asks how many trainees got jobs when it was all done.” Republicans called for an end to the Capitol’s “ingrained culture” of non-accountability, urging that “the governor order his people in finance and throughout the administration to begin analyzing programs for efficiency and effectiveness, then cut the waste and reward what works.”

The governor, meanwhile, has addressed the twin miscues of failing to consult with legislative Republicans and of allowing himself to be outmaneuvered by Democrats. Capitol sources say they believe he now thinks he gave in too early on the spending cap, and his quick, decisive action on local funding bowled the opposition over. Also, whereas he had left Republicans out of the bonds deal negotiations with Democrats, he called in *only* GOP lawmakers to discuss details of his first budget the last few days





before announcing it January 9. Democrats' first look at the spending plan came with the public announcement.



Schwarzenegger's first State-of-the-State address and the new budget itself constitute perhaps the most convincing evidence that momentum has gone back to the GOP. His speech squarely placed spending at the root of the state's budget crisis. He rejected

Democrat demands that government take more from California citizens in higher taxes, instead calling for an end to "irresponsible" state spending. "Over the last five years," the governor said, "the state's income has increased 25 percent, but spending increased by 43 percent. This was irresponsible." Echoing a theme GOP legislators stressed last year to defeat Democrat tax hikes, Schwarzenegger said California does "not have a tax crisis; we do not have a budget crisis; we have a spending crisis."

This straightforward statement of the problem, of both its causes and cure, has had a rippling effect in the larger debate. Even some Capitol journalists seem to be catching on. At least one article on the new budget, skipping the standard script about fat cats oppressing the starving poor, actually began with the following lead: "Gov. Arnold Schwarzenegger seeks in his budget proposal to rein in the state welfare policies that expanded continuously under Democrats since 1999, signaling his commitment to shield the taxpayers who have funded this growth from paying more." The article went on to report that "Costs for Medi-Cal, California's version of Medicaid — the federal health insurance program for the poor and uninsured — have increased steadily for years. But costs have skyrocketed since 1999, increasing 870 percent, from \$158 million general-fund dollars to nearly \$1.3 billion, even though the amount of recipients grew only 23 percent, according to Schwarzenegger's finance

department." Democrats, the report said, "expanded the number of Californians eligible for Medi-Cal, and added new, free benefits — including many not available to taxpayers who pay for their own insurance.

"At 15.3 percent, more residents use Medi-Cal per capita than in any of the 10 largest states — it is no longer necessary to be poor

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enough to qualify for welfare to obtain Medi-Cal — and Schwarzenegger cites CalWorks' work requirements and eligibility rules as more lenient than 20 other states. He said California faces a \$60 billion deficit by 2006 without significant cutbacks and program reforms."

### Democrat disarray

Democrats, meanwhile, have been thrown into disarray. The recall revealed a split in the opposition's legislative ranks between a so-called "war party" demanding a strategy of confrontation and no compromise with Schwarzenegger and Democrat lawmakers more inclined to try to work with the governor. Just after the bonds deal, the "war party" argued their side had been vindicated, that the governor's retreat on the spending cap proved that the way to win in post-recall Sacramento was to push, and push hard. But Schwarzenegger's emergency powers declaration reversed the Democrats' internal debate. The "work with him" faction now says confrontation has failed. Fremont Democrat John Dutra is considered leader of a dozen or so of these more moderate Democrats in the state Assembly. Known in some GOP circles as the "Mod Squad," they have begun to assert themselves in various ways. "In the past,"



a GOP Capitol strategist said, “moderate Democrats had a settled way of dealing with left-wing bills under a Republican governor — voting for them and letting the governor veto them later, thereby avoiding antagonizing their more liberal colleagues while also escaping responsibility for helping enact bad laws. But under Schwarzenegger this seems to have changed. In some cases, they are voting to kill bills they evidently consider extreme.” Republicans point, as an example, to a Democrat bill for new taxes on alcohol that died recently in the Assembly Health Committee *for lack of Democrat support*.

The “Mod Squad” also appears to have played a role in determining the Democrats’ choice of a new Speaker. Although neither Speaker-to-be Fabian Nunez nor losing rival Jenny Oropeza are considered among these Democrat moderates, at one point in the contest to replace Speaker Herb Wesson both Nunez and Oropeza counted 18 solid votes in their corner. The moderates saw the stand-off as a possible opportunity. They invited each candidate to be interviewed by them as a group. Nunez reportedly made a straightforward plea for support. Oropeza, appearing later, reportedly informed the group she had cut a deal with Nunez who had agreed to support her and become majority leader and that, therefore, the issue was settled. The “Mods” were skeptical, having just recently heard from Nunez. As it turned out, they threw their support to Nunez who is now going to be Speaker. The Capitol rumor mill predicts that the moderates will assume greater power and prestige in the form of committee chairmanships and other organizational perks when Nunez organizes the lower house.

The governor’s strategy now appears to be to pass his \$15 billion in bonds on the March ballot as a one-time expedient to be followed by real spending reform.

The alternatives to the bonds are immediate real spending restraint or higher taxes or both. Republican lawmakers disinclined to back the bonds like tax hikes even less; Democrats preferring tax hikes to borrowing like the threat of spending restraint even less, so an uneasy bipartisan coalition for the bonds as the least of various evils may be forming in the Capitol behind the governor’s leadership. We will have to wait and see how much develops on that.

In the Sacramento policy “ballgame,” the key issue is the Democrats’ unstated “Brezhnev Doctrine” with regard to spending: all bargaining begins with the question how much more of the taxpayers’ money will we spend this year? A large increase is normal, a small one is “painful” and “heartless,” little or no increase is “draconian,” “extreme,” “intolerable.” Under no circumstances can the debate be permitted to move so far as to propose any real roll-back of ground already conquered, *i.e.*, actual significant reductions in total spending to, say, levels of even a few years ago. The vast spending increases of Davis’s five years must at all costs be protected. What we have taken is off the table; what you still have is negotiable — the Sacramento Democrats’ Budget Brezhnev Doctrine.

This is a hard-edged, ideological formulation, irrelevant to California’s genuine governing requirements and not supported by any significant portion of the population. Republicans will know they have won significant ground when they replace the Brezhnev Doctrine with budgeting based on sound assessments of how much government the state really needs, how much it can afford, and how much is actually both effective and beneficial. Strange as it sounds, such a common sense approach would represent a radical departure, a reshaping, as *L.A. Weekly* put it, of “the very concept of government in California” — trashing ideology in favor of rational governing: an impossible dream? Perhaps yes, at least it was before October 7. But now, somehow, anything, even common sense, seems possible in wide-open, post-recall Sacramento.

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# Taxes & Torts *in* Texas

## The Honorable Rick Perry

*Texas, facing many of the same crises afflicting California, has enacted dramatic reforms, most of them consisting mainly of obvious common sense applied to what are routinely written up as "intractable" problems. To show how another large state is moving forward, CPR reprints the following excerpt from remarks delivered December 9 at The Heritage Foundation by Texas Governor Rick Perry.*

**A**mong the states, spending increased by 39 percent during the economic boom years of the late 1990s. When the dot-com bubble began to burst and the economic engine finally began to cool, it was inevitable that many states would have new spending habits they could no longer afford. There are two fundamental choices that must be made in tough budgetary times — especially in states like Texas where the constitution requires a balanced budget — and that is either to raise taxes or to control spending. I believe that when the economy softens, it is precisely the wrong time to raise taxes. Our families and businesses should not have to shoulder additional sacrifices so government doesn't have to.

### Zero-Based Budgeting

We welcomed the New Year in Texas with the news that the state government was nearly \$10 billion in the hole, representing roughly 16 percent of what we spend in state general revenue. It was a huge challenge — one that would require more than a little tinkering with the

levers of the government machinery. It was time to overhaul the engine.

The Texas Legislature meets only 140 days every two years, though there is a movement afoot to change that to two days every 140 years. And based on the refusal recently by some legislators to show up for work, I think that movement is gaining momentum.

But with a part-time Legislature, tough decisions must be made quickly. When we convened in January, we did two things in short order. We required nearly every state agency to produce cuts of 13 percent for the remainder of the fiscal year. And second, because Texas elected its first Republican majority in 130 years, legislative leaders joined me in a new approach to budgeting. We started at zero.

We scrapped the practice that had gone on for decades — the writing of new budgets with the previous year's budget as the starting point. Instead, we viewed tough economic times as a unique opportunity to build government anew, reshape priorities, and refocus its mission.

Every state agency had to explain their priorities and identify ways that they could create additional savings. No government program or government expenditure was immune from inspection. And we refused to budge from our position of "no new taxes" even as the voices of big government began to fill the editorial pages and the halls of the state capitol with outrage.

The proponents of bigger government have complained I have been hardheaded in my opposition to tax hikes. They call it political calculation. I call it an act of principle. We often hear the voices of those opposed to budget cuts. Well, they have a right to be heard. But what about the voice of the taxpayers — the men and

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*The Honorable Rick Perry is governor of Texas. This article is excerpted from Heritage Lecture #814, published by the Heritage Foundation and available at: <http://www.heritage.org/Research/Taxes/hl814.cfm>*