

UC Berkeley
California Journal of Politics and Policy

Title

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Permalink

<https://escholarship.org/uc/item/3pz0s2dv>

Journal

California Journal of Politics and Policy, 2(2)

Author

Schrag, Peter

Publication Date

2010-02-03

DOI

10.5070/P2FS34

Peer reviewed

One Cheer for the Con-Con

Peter Schrag*
formerly with the *Sacramento Bee*

As the old cliché goes, in politics you can't beat something with nothing. So even though the proposal for a constitutional convention is flawed—and while it involves all sorts of imponderables—absent a decent third alternative, it seems to be either the con-con or the continuation of an unacceptable status quo. A convention at least has a chance of bringing home to the delegates and, just possibly, to many other Californians, both the seriousness and the complexity of the state's dysfunctional governmental structure.

There are no recent models of successful state constitutional conventions and there is always the fear of a runaway convention getting into divisive social issues and/or

ignoring the complex structural problems that its backers hope to address.

In the case of the proposal now being sponsored by the Bay Area Council, there's also an equal but opposite danger. In a bow to what its sponsors imagine is an immutable and rigid antitax orthodoxy, the initiative prohibits the delegates from including any “new language, or alter(ing) existing language, that directly imposes or reduces any taxes or fees; sets the frequency at which real property is assessed or re-assessed; or defines change in ownership as it relates to any tax or fee.”

What that means is that Proposition 13, probably the most severe constitutional constraint on legislative discretion and on local government—and thus on representative democracy—would remain untouchable. Its perpetuation would set the hopeless muddling of state and local authority, and thus of

* Peter Schrag is the retired editorial page editor of the *Sacramento Bee* and the author, most recently, of *California: America's High Stakes Experiment* (2006). His forthcoming book, “Not Fit for Our Society: Nativism and Immigration,” will be published by the University of California Press in the spring.

governmental unaccountability, even deeper into concrete. On that point, at least, it would be nice to have a runaway convention.

Is the whole process of choosing delegates too unwieldy? The federal constitution was drafted by a small cosmopolitan elite. The delegates to this convention would mostly be ordinary citizens, hundreds of them. Would they be wise enough to reach agreement on an improvement over what California has now? Would the voters support the many changes that a new constitution should entail? Will the courts stop this whole untested process even before it produces anything that could go to the voters? The questions go on and on.

But there's a chance that, regardless of the outcome, the process itself could be a major step in the restoration of citizenship and public engagement, a statewide, ongoing class in government and democracy. Given the chronic alienation of Californians from their government and the structural impenetrability of the system now, the upside possibilities seem to this desperate and depressed citizen to overmatch the risks.