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4 February 2021

SENATOR TONI G. ATKINS
SENATE PRESIDENT PRO TEMPORE
STATE CAPITOL, ROOM 205
SACRAMENTO, CA 95814

RE: REVISAL OF CAL. CIV. CODE § 841

Dear Senator Atkins,

I write this during a momentous period for our constitutional republic, after the cartoonish and deadly *coup d'état* at the U.S. Capitol on 6 January 2021, and before the second impeachment trial of Donald Trump gets underway on 9 February 2021.

As I write, anti-government civil unrest is on the rise. Violence motivated by an assortment of anti-government grievances presents enough of a threat across the U.S. that the Department of Homeland Security issued a national terrorism bulletin warning about domestic extremists on 27 January 2021. Significantly, what used to be dismissed as fringe ideas now enjoy mainstream support among “golf-shirt-wearing dads” and “QAnon-believing moms” whose world is unraveling in ways that feel rigged against middle-class people like them. Officials in California’s GOP — such as Phil Reynolds, of the GOP central committee in California’s Santa Clara County, and state Assemblymember Randy Voepel (R-Santee) — even “parrot far-right talk of a coming civil war”: Reynolds recently called for citizens to “take arms!” on Facebook, and Voepel texted a *San Diego Union-Tribune* reporter after the U.S. Capitol insurrection on 1/6/2021 that “Yes, this is Lexington and Concord. First shots fired against tyranny. Tyranny will follow in the aftermath of the Biden swear in on January 20th.”

The ongoing cries for a sustained citizen revolt — “it’s our constitutional duty to overthrow a tyrannical government,” according to Justin Haskins, founder of the San Diego vigilante group, Defend East County, who continued: “At what point do you stop waving your dumbass flags and yelling your stupid chants and start taking this country back just like the patriots of 1776 did?” — point to the profitability of acculturating outrage and grievance *via* social media and talk radio. Indeed, former President Donald Trump has ridden the new wave of Internet radicalization all the way to the bank, reportedly amassing over \$31.2 million by the end of 2020 for the new political movement linked to his leadership PAC, Save America, and joint fundraising committee, the Trump Make America Great Again Committee.

By now, the entire country has awakened to our real, as well as manufactured, problems of electoral democracy. Recent polls show that 31% of USers believe that President Biden's government is illegitimate because the 3 November 2020 election was "stolen." And activists' ongoing lawsuits challenging the integrity of the November 2020 election ensure that Donald Trump's "Save America" rallies and protests will continue, even in California, where citizens are so aggrieved by our dysfunctional state government that what began as a routine effort to recall our golden-boy governor has "really taken off in the last couple of months" (boosted by mounting evidence of governing-class hypocrisy and ineptitude).

Conspiracy allegations aside, the 3 November 2020 presidential election was surprisingly *secure*. The count was accurate; the amount of voter fraud (on both sides) was insignificant; and President Trump demonstrably lost the popular vote (74+ million to Biden's 81+ million), and the Electoral College vote (232 to Biden's 306), on the merits: because of his dishonesty, and mishandling of the COVID-19 pandemic. While there is no evidence of "a corrupt, stolen election" in the sense alleged by Donald Trump & his loyalists, there is growing recognition — across the political spectrum — that our elections are corrupt, in the sense of profoundly undemocratic and *unfair*.

I have been reporting on our growing sense of malversation throughout government ever since I launched my study of fake representation in California, as exemplified by California's flawed *Good Neighbor Fence Act of 2013* (Assembly Bill 1404); *see*, for example,

<https://she-philosopher.com/studies/California-AB-1404.html#creeping-corruption>

<https://she-philosopher.com/studies/California-AB-1404.html#liberal-democracy>

<https://she-philosopher.com/studies/California-AB-1404.html#crisis-of-representational-integrity>

(*note*: these and all subsequent URLs are case-sensitive)

As a pro-government political progressive, I seldom agree with Trump loyalists and reactionaries clamoring to "LIBERATE America" from tyrannical liberal government. Rather than looking to gerrymandered state legislatures to suppress the popular vote, I believe in early-17th-century founding republican values promoting universal suffrage and expanded access to voting, as described here:

https://she-philosopher.com/studies/guns-and-militias_2w4.html#1656-statute-re-suffrage

And when elections — such as for California State Assemblymember, 77th District (weighted such that the incumbent, Brian Maienschein, will only be removed from office by term limits) — do not turn out as I would wish, I abide by majority rule. I do not seek to overturn a legal election.

Nonetheless, there is common ground to be found when it comes to the contentious issue of "election integrity." Populists left and right and center can come together around the rallying cry that "We the People" need to "take the power back." Most of us can agree that our government and politicians need to work for ordinary folk again. In the parting words of Donald Trump,

“... Now, as I prepare to hand power over to a new administration at noon on Wednesday [1/20/2021], I want you to know that the movement we started is only just beginning. ¶ There’s never been anything like it. The belief that a nation must serve its citizens will not dwindle, but instead only grow stronger by the day.” (President Donald Trump, in his recorded farewell address, issued the day before his departure from the White House, 1/19/2021)

How a nation best “serves its citizens” is, of course, hotly disputed. Former President Trump’s policies still poll at 38% approval, and our “overlapping yet irreconcilable experiences”

<https://she-philosopher.com/studies/California-AB-1404.html#irreconcilable-ontologies>

of the Trump presidency remain unchanged (he entered office in January 2017 with a 39% approval rating). Partisan rancor over which faction represents the biggest threat to our representative democracy — the neoliberal Democrat/Republican political establishment? or the authoritarian, America First populism of the Trump dynasty? — continues to escalate, with disaffected Trump loyalists warning about the forthcoming “Californication” of the country and “the Democrat reign of terror that is beginning” following the Democrats’ win of the executive and legislative branches of the federal government. As Bernie Sanders reminded those in the Trump resistance:

“We have gotten a reprieve. Democracy has gotten a reprieve with Biden’s victory. That’s all it is. We did not win a rejection of what Trump stands for. We have got to ask ourselves, ‘Why are we at a place where democracy is now so very threatened, and what do we do about it?’ That is the question that every American should be discussing.” (“Q&A: Bernie Sanders,” *The Nation*, 28 Dec. 2020–4 Jan. 2021, vol. 311, no. 13, p. 46)

With this letter, I take up Bernie’s gauntlet.

In my opinion, the best way to combat Donald Trump’s anti-government demagoguery is through a show of *good government*, historically framed as government that “promote[s] the Welfare of the Country, and procure[s] the Felicity of the Subjects” by acting with “Wisdom, Prudence, and Discretion” “to the Prejudice of the publick Good.” (Dennis de Coetlogon, *An Universal History of Arts and Sciences*, 2 vols., 1745, 2.44 and 2.38) In the Latin West, good government (be it a monarchy, aristocracy, or democracy) privileged “the common Cause,” which binds us in a social compact, over “the scandalous, and oppressive Motives of Self-Interest” and those who would sacrifice “the publick Liberty [...] to their own private Interest.” (De Coetlogon, 2.42)

According to the historical ideal of republican government, “Nothing had ever been concerted but for the publick Good; nor new Laws made, or old ones interpreted, but for the Preservation of that beautiful and just Harmony which should subsist between the different Members of a Republick” (De Coetlogon, 2.40). And for Age of Enlightenment authors such as Dennis de Coetlogon, the Roman republic (before it was corrupted) was exemplar: “No *Government* (the Theocracy [of the prelapsarian Garden of Eden] excepted) had ever been better calculated for the Felicity of the

Subjects; the Preservation of their Rights and Properties, having been made the Foundation thereof" (De Coetlogon, 2.42).

As De Coetlogon made clear in 1745, "the Preservation of their [subjects'] Rights and Properties" has been foundational to liberal democracies since the early Roman republic. Yet, this founding principle is ignored by the political class in Sacramento, as I have been pointing out since I launched my online crusade

<https://she-philosopher.com/studies/California-AB-1404.html>

against the ill-conceived *Good Neighbor Fence Act of 2013* on 18 September 2016.

In a 1/11/2021 Associated Press article entitled "State Capitols Step Up Security amid New Safety Concerns," David A. Lieb quoted Democratic Majority Leader of the Washington state House of Representatives, Pat Sullivan, who

"said that both the pandemic protocols, plus the security concerns, will make lawmakers' work more difficult, but he said that 'people are counting on us to pass budgets and laws that help them in their daily life.'"

The people of California want this, too. But instead of laws that actually help us in our daily lives, we get year after year of what an exasperated Senator Melendez called "crappy bills":

"Senate Democrats just voted to limit the number of speakers on a bill to only two speakers. This silences the voices of millions of people so democrats have enough time to pass their crappy bills before midnight. This is outrageous and is COMPLETE BULLSHIT." (tweet posted by California State Senator Melissa Melendez [R-Riverside], at the culmination of the 2020 legislative session)

As you know, I have taken to calling this style of partisan politics "fake representation," as in the section of my Web page on AB 1404 covering your Senate performance in 2019:

<https://she-philosopher.com/studies/California-AB-1404.html#another-year-of-fake-representation>

While I have no time right now to finish my scathing appraisal of your legislative performance in 2020, rest assured that it will be forthcoming as soon as I can get to it. As in prior years, you again chose in 2020 to push more "crappy bills" instead of fixing Section 841 of the California Civil Code (or explaining to the people of California why you don't think it needs fixing).

I have asked repeatedly that my representatives "new modelize their Government" (De Coetlogon, 2.44) and "save our suburbs" (Trump 2020 campaign slogan), by advancing "the publick Good," rather than whatever special interests were behind the misguided AB 1404. Over the years, you have had multiple opportunities to enact a revision of Cal. Civ. Code § 841,

<https://she-philosopher.com/studies/California-AB-1404.html#original-California-Civil-Code-Section-841>

<https://she-philosopher.com/studies/California-AB-1404.html#modernized-California-Civil-Code-Section-841>

but instead of being honest representatives for “We the People,” you have merely enlivened the right-wing caricature of tyrannical liberal government.

As I have stated here,

<https://she-philosopher.com/studies/California-AB-1404.html#legislative-revisal>

in keeping with historical legislative precedent, I am seeking a revision of Cal. Civ. Code § 841, which I contend was corrupted by California’s *Good Neighbor Fence Act of 2013* (Assembly Bill 1404). And if, in 2021, the California state legislature still finds itself unable to appropriately modernize the original law, then I seek a reenactment of the founding statute (restoring the language that “Coterminous owners are mutually bound to maintain: ¶ 1. The boundaries and monuments between them; ¶ 2. The fences between them, unless one of them chooses to let his land lie without fencing; in which case, if he afterwards incloses it, he must refund to the other a just proportion of the value, at that time, of any division fence made by the latter.”).

I am copying California Assembly Speaker Anthony Rendon on this letter because, as of this writing, he has proven to be my only honest representative in the legislature, and I am hoping that he will enact needed legislative reforms, when these serve the common good, even if you will not.

Besides, as a leader of the Democratic Party in California, Speaker Rendon should know that there are real-world consequences for the unapologetic fake representation I endure in Sacramento. As a single-issue voter, concerned above all else with our growing crisis in representative government, I voted in November 2020 for two Republicans — whose policies I mostly oppose — to represent me in Sacramento, simply because they are not, as yet, proven fake representatives. While I did not vote for Donald Trump (yet another fake representative), the motivation behind my first-time vote for two Republicans is quite similar to that driving Trump voters who self-identify as a new kind of binary: “I’m not a *Republican*. I’m an *anti-Democrat*.”

Moreover, since learning in 2020 that the Democratic Party establishment actively supports the campaigns of known fake representatives — *i.e.*, is “actuated by the scandalous, and oppressive Motives of Self-Interest” (De Coetlogon, 2.40) before all else — I have decided that I will no longer donate to Democratic candidates (most recently, Elizabeth Warren and Mark Kelly) if they are fundraising for the party (as did Al Franken for many years). Nor will I donate to favorite organizations that give money to the Democratic Party, no matter how worthy the cause. I am adamant that not another penny of mine go to helping fake representatives stay in office.

Bernie Sanders concluded his *The Nation* interview with a pointed observation: “the main problem is the Democratic Party is not clear about what it stands for.”

I am asking the party to return to its republican roots — no “new Laws made, or old ones interpreted” (De Coetlogon, 2.40) unless to “promote the General Welfare” (preamble to the U.S. Constitution) — by enacting a revisal of Cal. Civ. Code § 841. This kind of legislative reform won’t cost the taxpayer anything, but will restore founding values central to “maintaining the publick Liberty.”

Now, more than ever — when anti-government fervor is at fever pitch — there is a need for recommitting to, and boldly reimagining, “the common good.”

Surprise us. Start rooting out corruption, along with fake representation, and show “We the People” how *good government* is done after Trump.

Sincerely,

Deborah Taylor-Pearce

Constituent

California State Senate District 39 & California State Assembly District 77

cc: [*duplicate mailing to San Diego District Office (because of past delivery problems)*]

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