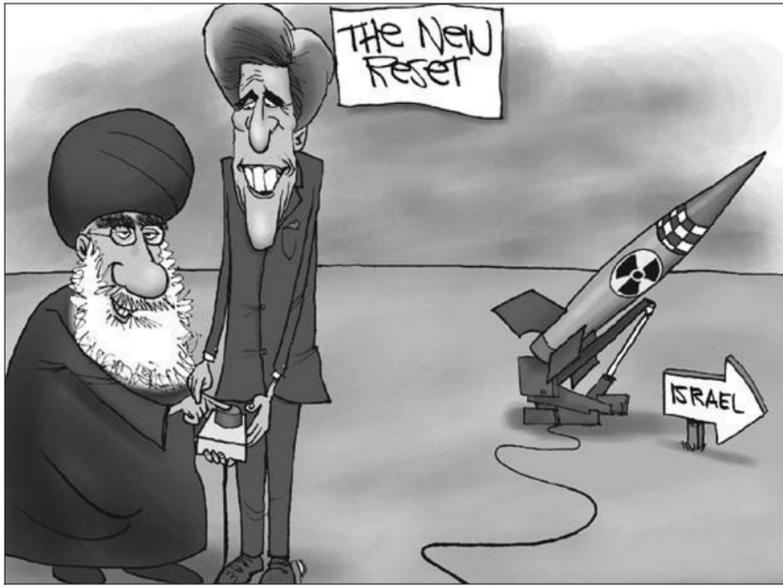
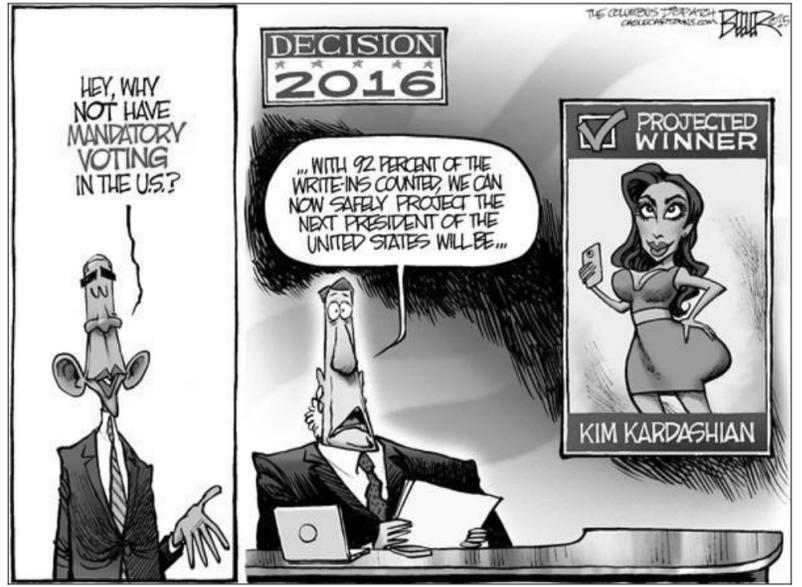


COLUMNS & CARTOONS



GARY MCCOY / CAGLE CARTOONS



NATE BEELER / CAGLE CARTOONS

## Wrongly convicted, wronged again

Earl Truvia and Gregory Bright spent 28 years in prison in Louisiana for murders they did not commit. Monday, the Supreme Court denied review in their case, which means that they never will receive any compensation for the harm they suffered. This is only the most recent example of the

court failing to provide relief to the wrongly convicted.

Truvia and Bright were convicted in 1976 and sentenced to life in prison. At the time of their trial, the Orleans Parish District Attorney's Office hid key evidence from them, even though disclosure was constitutionally required. For example, the District Attorney's Office did not reveal the arrests of three other people suspected of the murder for which Truvia and Bright were convicted, and actually provided false testimony that one of the three had not been arrested.

In 2002, a Louisiana court found that the Orleans Parish District Attorney's Office had unconstitutionally withheld information from Truvia and Bright and overturned their convictions. In 2004, they were released from custody. Truvia and Bright then sued the District Attorney's Office for money damages.

The federal courts ruled against Truvia and Bright, saying that there was no proof that the policies of the Orleans Parish District Attorney's Office violated the Constitution. The courts came to this conclusion even though there are at least a dozen known cases of innocent people being convicted by that office where key evidence was hidden from the defense.

Across the country, there is a serious problem of prosecutors impermissibly hiding information from criminal defense lawyers. As United

States Court of Appeals Judge Alex Kozinski recently declared, the problem of prosecutors not turning over evidence when disclosure is required, "has reached epidemic proportions in recent years." One commentator remarked that "[w]ithholding favorable evidence ... seems to be the norm."

Yet, the Supreme Court has made it impossible to sue the prosecutors who violate the law in this way or the local governments that employ them.

The Supreme Court has held that individual prosecutors never can be civilly sued for their prosecutorial actions, so some of the wrongly convicted sued the local government the prosecutors work for. The Orleans Parish District Attorney's Office has a notorious history of not disclosing information to defendants as required by the Constitution. The jury ruled in favor of one plaintiff, John Thompson, and awarded him \$14 million for being wrongly convicted and spending 18 years in jail.

But the Supreme Court reversed, in a 5-4 decision, and held that the local government could not be held liable for the prosecutorial misconduct.

Thompson, like Truvia and Bright - and, unfortunately, many others - was wrongly convicted of a crime and spent years in prison. These individuals should have been able to recover money damages to compensate them somewhat for their losses and to deter wrongdoing in the future. But they were left with nothing.

I was the lawyer for Truvia and Bright, trying to get their case heard by the Supreme Court. On Monday, when the court denied my petition for review of their case, Truvia and Bright were left without any relief. Once more, the Supreme Court has closed the courthouse doors to those who need and deserve better.

Erwin Chemerinsky is dean of the UC Irvine School of Law.



ERWIN CHEMEKINSKY CONTRIBUTING COLUMNIST

## BROWN'S THREE-POINT ENERGY PLAN

Governor's proposals fall short, appease only Democrats.

By BILL WHALEN CONTRIBUTING WRITER

Jerry Brown is California's longest-serving governor, not to mention one of its more arcane chief executives in recent times. Brown doesn't do many in-depth interviews; he cares little for insights into his political psyche.

That said, we know two things about the governor, who's currently in his record fourth and final term. Every day brings him closer to retirement. And he's the son of another governor fabled for big ideas.



JUSTIN SULLIVAN, GETTY IMAGES

Gov. Jerry Brown speaks during the fourth annual Water, Energy and Smart Technology Summit and Showcase at NASA Ames Research Center at Moffett Field on May 23, 2013, in Mountain View.

Keep those two factors in mind when trying to make sense of the three big energy proposals offered by Brown in this year's State of the State Address, all to be accomplished over the next 15 years: cutting the state's auto petroleum use in half, boosting the use of renewable fuel sources from one-third to one-half, and improving buildings' energy efficiency.

Are Brown's energy ideas viable? We'll get to that later. But in the near term, they would seem to serve at least two purposes: It puts Brown in the mainstream of fellow Democrats alarmed by fossil fuels and climate change (even President Obama has suggested that global warming may be a greater long-term threat than terrorism); the proposals, if they come to fruition, change the state's landscape much in the same way that the late Pat Brown built freeways and waterways.

But how realistic is such talk of a more energy-efficient, less gasoline-dependent California? Jeremy Carl, a Hoover Institution research fellow specializing in energy studies, points out that, in reducing petroleum, the calendar works to Brown's disadvantage: new auto fuel technologies takes years to come on line. And, as he has to leave office in January 2019, Brown will be leaving oversight and implementation to the mercy of his successors.

A word of caution to the next two governors: tread lightly when tinkering with the love affair between Californians and their cars. The last governor to step into

that romance was Gray Davis, who claimed his hands were tied when the state's vehicle license fee (i.e., car tax) was tripled. That was just before Davis got the boot in 2003's historic recall election.

As for increasing the use of renewables, Ron Lapsley, head of the California Business Roundtable, notes that Germany has set a goal of reaching 80 percent renewable energy by 2050. At present, the country gets a quarter of its power from renewables.

Meanwhile, Germany's carbon dioxide emissions rose by 1.3 percent in 2012 because locals had to use more coal to provide backup power to supplement its renewable production while phasing out its nuclear resources.

The third Brown proposal - making California buildings more energy efficient - also is a tall order. And one that, ironically, might find its greatest foe in the same government over which Brown presides. As pointed out by Dian Grueneich, a former California PUC commissioner and Hoover senior research energy scholar, much of California energy efficiency is driven by mandatory requirements and customer-funded programs set by state regulators.

As she notes in Hoover's new Eureka analysis of Brown's proposals, any government actions overseeing further efficient reforms will have to be streamlined and coordinated - two words not commonly associated with Sacramento policy.

Long before 2030 arrives, there's the matter of the governor working with the Legislature in the months ahead. It's not always been the smoothest of relationships - lawmakers want to spend more than Brown would; his tastes are too centrist for the more progressive Democratic majorities in the Senate and Assembly.

As such, Brown's energy proposals offer one more benefit: a big green carrot to dangle in front of his fellow Democrats, when he's not applying the stick, most notably, changing state retirees' health care pensions.

Over a half-century ago, Pat Brown made his mark by putting bold policy ideas into action. Time will tell if the sun also rises on what his son wants to do with regard to California's energy use.

Bill Whalen is a research fellow at Stanford University's Hoover Institution, where he analyzes state and national politics.

## Sen. Tom Cotton, a tragic hero

Was senator's letter a political "blunder"?

The snarky quip attributed to 19th-century French Foreign Minister Charles Maurice de Talleyrand - "It was worse than a crime; it was a blunder" - has recently been making the rounds to deride a letter written by

Sen. Tom Cotton, R-Ark., and signed by 46 other senators.

They wrote to the Iranian theocracy that any

agreement on nuclear proliferation negotiated with President Obama will not constitutionally bind the next administration - unless it is properly ratified by Congress.

Democrats were outraged. They charged that Cotton's letter is a crime, a violation of the 216-year-old Logan Act. That law bars unauthorized individuals from conducting negotiations with foreign governments.

In fact, the letter was not a crime or a blunder. Republican senators went to great lengths to undermine Woodrow Wilson's utopian idea of a League of Nations. Gen. Douglas MacArthur and House Minority Leader Joe Martin did their best to sabotage what they thought was the reckless

policy of then-President Harry Truman concerning Korea and Formosa.

Democrats in Congress have been just as eager to warp administration foreign policy in claiming their co-equal part in government.

Secretary of State John Kerry is the most outraged of Cotton's critics - and has the most notorious record of trying to undermine presidential foreign policy.

As a freshman senator, Kerry traveled to Nicaragua to show solidarity with "Comandante" Daniel Ortega - as a way of opposing then-President Reagan's efforts to help the Contras in their resistance to the Sandinista communist takeover. Two other Democrats, Sen. Tom Harkin and House

Speaker Jim Wright, also met with Noriega.

Most unfortunate was House Speaker Nancy Pelosi's disastrous 2007 trip to Syria to meet with thuggish President Bashar al-Assad. At the time of their meeting, Assad was offering assistance to radical Islamic groups that were attacking U.S. troops in Iraq.

Cotton and the senators, in contrast, never traveled to hostile territory, never met with America's enemies, and never wrote warm personal letters to thugs.

But was the Cotton letter a political "blunder"?

Not really. Obama's effort to negotiate an end to Iranian nuclear proliferation is probably bound to fail,

given that it greenlights further Iranian nuclear enrichment.

Obama's "red lines" to Syria, the failed reset with Russia, the lead-from-behind mess in Libya and the skeddadd from Iraq and Yemen have convinced the Iranians that Obama will predictably go soft in negotiations, or not expect compliance with any agreement he signs.

Obama's estrangement from both Israel and the Arab Gulf states only further reminds the Iranians that American negotiators are not worried about their allies' outrage over the proposed deal.

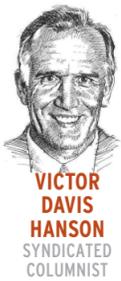
First designated as a sponsor of terrorism in 1984, Iran has been deemed by the State Department to be the leading state sponsor of terrorism.

Republicans, Democrats and all Americans should thank Cotton for reminding the Iranians that under the U.S. Constitution, the Senate must ratify treaties with foreign powers. Cotton will get no credit if the Iranians get worried over his letter, relent and offer needed concessions.

But Cotton will endure plenty of blame if Iranian negotiators walk away in fury because a skeptical U.S. Senate would have to approve any sweetheart deal that they pulled over on Obama.

In other words, Cotton is not a blunderer - he is a classic lose/lose tragic hero.

Victor Davis Hanson is a classicist and historian at Stanford University's Hoover Institution.



VICTOR DAVIS HANSON SYNDICATED COLUMNIST