

CHAPTER TWO

California's Cruellest Law

“I am a 61-year-old cancer survivor. AB 5 destroyed my life, taking my over-the-phone interpreter job. Who will hire a sick senior like me? I was making good money, taking my breaks when I feel like it. During my chemotherapy this job was my salvation against depression. It made me feel useful, helping people in hospitals, pharmacies, hotels, rental companies, immigration agencies, and much more. When I was interpreting, I didn’t even think about any bad things happening in my life. Since January I live with depression. Some days I don’t have strength to get up in the morning, I just crawl and cry—because for eight years I’ve been waking up to log in and start to work. Sometimes I wish I could die. My name is Monica, and this is my AB 5 story.”

In an alternate universe where 2020 never happened, Gavin Newsom might not be facing a viable recall. But he would still have earned his place in the pantheon of California’s most corrupt governors by virtue of signing, celebrating, and ruthlessly enforcing the most corrupt law in our state’s history.

Newsom’s own former deputy chief of staff Yoshari Ali called it “one of the most destructive pieces of legislation in the past 20 years,” adding, “It’s truly horrific how many people are negatively impacted by it.” Newsom’s political godfather, Willie Brown, said the law made him want to “picket” against the “bastards” at the Capitol and the special

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interests that “took advantage” of them. Andrew Cuomo rejected a similar law in New York, saying he didn’t want to “make the same mistake” as California. The liberal Daily Kos likewise warned other states, “Don’t make the mistake California’s Gavin Newsom did,” with the site’s founder calling the law “disastrous” and “asinine” and its supporters “shameful.”

The NAACP assailed it as a “terrible law” and a “gut punch to our community.” The CEO of the Black Chamber of Commerce called it a “catastrophe” responsible for “enabling, defending, and propagating systemic racism.” Two hundred Ph.D. economists, including a Nobel Laureate, reported the law is “doing substantial, and avoidable, harm to the very people who now have the fewest resources and the worst alternatives available to them.” One commentator called it “the most malicious and harmful law ever passed in California.”

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As of midnight, on August 20, 2020, Uber and Lyft were set to shut down service in California entirely. Assembly Bill 5, signed by Gavin Newsom the year before, had banned the operation of these companies as we know them. The only reason this didn’t happen was a judge issued a temporary emergency stay. If voters had not passed Proposition 22 in November, exempting ridesharing providers from the law, they would have been forced to leave—putting hundreds of thousands of California drivers out of work and depriving millions of Californians of their services.

Uber and Lyft drivers are just the tip of the iceberg. AB 5 effectively bans independent work of any kind—being your own boss. With a single stroke of his pen, Governor Newsom rendered countless Californians, spanning hundreds of professions, unable to earn a living in our state. These professions range from writers and musicians, to translators and

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interpreters, to educators and health care professionals. Even the likes of birthday magicians and mall Santas have been ensnared by the law. If you're a parent who's had difficulty hiring a tutor to assist your child with distance learning, AB 5 is probably to blame. Many national companies now explicitly disclaim on their applications that they can no longer work with California freelancers.

While authored by a legislator from San Diego, the bill was actually written by the most powerful Special Interest at the California Capitol: massive union conglomerates that have taken over what used to be genuine worker advocacy associations and turned them into profit centers. They use these profits to install politicians whose only function is to do their bidding and pass laws that increase their profits even more—and round and round we go, as ordinary Californians pay the price.

AB 5, in particular, was the biggest windfall for these Special Interests in years. The bill's purpose was to eliminate a large non-revenue-generating sector of the workforce: independent workers whose paychecks aren't subject to union dues. Lee Ohanian of the Hoover Institution called it “an enormous political payoff,” as the “new law provides hundreds of thousands of new workers for union organizing efforts once these workers become formal employees rather than independent contractors.” It's the same purpose behind Governor Newsom's war on charter schools, which he's targeted in a way Jerry Brown never would. Since unionization at charters is voluntary, not automatic, they provide less revenue for the California Teachers Association—the largest of the corporate-like union conglomerates whose largesse Newsom rode to office.

Just as it didn't matter to Newsom that charter schools have proven to be the best hope for many underprivileged kids, it made no difference that the vast majority of independent contractors desire that status—often because life circumstances like being a single parent or having a

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disability require flexibility in their work arrangements.

AB 5 STORIES

The most powerful voices speaking out against AB 5 were the law's victims, countless Californians who had their careers destroyed. In early 2020, I compiled a book of their stories and gave a copy to Governor Newsom and every California Legislator. Consider just a few:

Michelle: "I am a nail technician renting space in a tiny salon in Chico. I am a Campfire survivor who lost my home and my hometown, and I lost my husband on 4/18/19 to cancer. I am my sole provider and this bill will put me out of business."

Andy: "I work with underserved artists of color. NONE of my career as an artist, technician, designer, and producer would've been possible under AB 5. Artists of color will be less able to create their own work in a field that doesn't favor them"

John: "I am a guest orchestral conductor. Because of this bill, I just lost my first scheduled job with an orchestra – \$9000 that would have put a dent in my student loans, or helped pay my insurance, or paid for food and shelter is now gone – all because of AB 5."

Esther: "I help people who don't speak English communicate with medical providers. I'm a proud senior, independent and self-sufficient. AB 5 leaves me out of work, unprotected and isolated. It takes away my pride. It was passed without taking people like me into account."

Sylvia: "I'm the Director of a small nonprofit opera. We've scrambled to comply with AB 5, but it will cost \$10,000. Our nonprofit doesn't have this so I'll pay. We can't sustain this and will likely go dark. I founded the company 20 years ago so this breaks my heart."

Jodie: "I worked years to gain my skill as an American Sign Language Interpreter. It was my goal since I was 9 years old. After AB 5

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I lost all 3 of my agencies. The dream I worked for is lost, I can't provide for my family and thousands of CA Deaf won't be serviced."

Eddie: "I am disabled and unhirable for a regular job. Yet as an independent contractor specializing in unique things I have been able to work and survive in LA since 1983. AB 5 has me very, very worried. I literally have no clue how much longer I can survive."

Megan: "I am a nurse practitioner. AB 5 is widening the gap in healthcare as small rural practices that can only be staffed with contractors shut their doors. Setting my own schedule has allowed me to spend time with my children that I will no longer be able to."

Jean: "I've been a tech writer in the medical device industry for 15 years, for Bay Area companies. I can't afford to live in the Bay Area so I live on the central coast. I'm now unemployed thanks to AB 5. It's devastating. I have no idea how I'll stay afloat."

Daniel: "I am a chiropractor in California. I was just terminated from my wonderful independent contract, 10 hour/week job. The company cited AB 5. I've had this job for 10 years. The job allowed me flexibility to take care of my 3 special-needs kids. Now it's gone."

Connie: "Problems standing/walking limit my ability to find employment. I choose to work as an IC because it suits my life best. Now my online teaching company stopped working with CA teachers. AB 5 is taking away my choices and livelihood and I might lose everything."

Jared: "AB 5 forced me to shut down my business. I went from making \$80,000/year in home services to a minimum wage employee. My family trade is gone. I've gone from working 4 days/week to spend time with my kids to not knowing if I can make ends meet working 7 days"

Julia: "Due to mental health issues, I'm unable to work in an office. Then I started freelancing – a change that allowed me to work from my own home, on my own schedule. I now for the first time feel in control of my mental health and livelihood. AB 5 threatens this."

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Kathi: “I’m begging you to suspend AB 5. I’m a 71-year-old transcriber. I raised 6 kids and went to work in my 40’s but I had to retire at 62 due to health issues. I depend on my at-home transcription pay to survive and pay my bills. For 8 years I did ok, until AB 5.”

Willow: “I’m an independent micro-budget producer. AB 5 shut down my series I’d planned to film in Sonoma, and I’ve had to rethink films, audio dramas, comic books, motion comics. People I’d planned to pay now get nothing. Congrats, you’ve obliterated indie film in CA.”

Barbara: “I’m a proofreader. Competition is fierce and it’s hard to get clients, but I did it. I was thrilled to choose jobs I was best suited for and to work when I wanted. After AB 5, Californians need not apply. Thanks Mr. Newsom for destroying my hard-earned career.”

Lynn: “The ability to work independently provides me as a single mother of multiple children with special needs flexibility to earn livable wages. I CHOOSE to work independently. AB 5 does not protect the working middle class. It severely cripples it!”

These voices came from every walk of life and an astounding diversity of professions. Yet after being targeted by our state government, they quickly coalesced into a powerful movement the likes of which California had never seen. One hub of organizing was the Freelancers Against AB 5 Facebook group, which now has over 20,000 members. A survey showed this group of opponents was mainly comprised of Democrats, even though the law was passed by a Democrat Legislature and signed by a Democrat Governor. As it turns out, decent people of all political affiliations are against cruelty and corruption.

NEWSOM’S SILENCE

In the weeks leading up to COVID, it was, as one headline put it, “All-AB-5, All-the-Time” at the Capitol. I led an effort to overturn the law by introducing Assembly Bill 1928, a full repeal.

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On January 29, I organized a Rally to Repeal AB 5, with hundreds of independent contractors traveling to the Capitol from all across the state. My goal was not to castigate the Governor but to appeal to his conscience. Addressing the crowd, I quoted a letter Newsom had recently written to lawmakers, describing a state where millions of people come together “in pursuit of their own version of the California Dream.” I then spoke to him directly: “Governor Newsom, we are here today to tell you that this cannot be reality as long as AB 5 is on the books.”

Perhaps never in our history, I said, had “a legislative enactment so shattered the lives of so many people, or so shaken the foundations of our pluralist society.” I listed off a small sample of the impacted professions, saying “hardly an industry or trade is unscathed.” Most devastated by AB 5, I continued, “are our most vulnerable: seniors, caregivers, students, reformed convicts, single mothers, people with disabilities or health issues or mental health needs—all of whom *rely* on independent contracting.”

Newsom and other proponents had absurdly described the law as a worker protection measure, even though the vast majority of independent contractors opposed these “protections” and industries with sufficiently powerful lobbyists were exempted entirely. Addressing that pretext, I recognized that “organized labor has played a vital role in humanizing the American workplace, grounding our economic life in the values of dignity, autonomy, and respect for our common humanity.” But, I continued, “Assembly Bill 5 is an affront to those values, through and through. When you take your God-given talents, nurture them with heart and soul, and offer them to the world, that’s not exploitation. That’s self-actualization.”

To conclude, I again appealed directly to the Governor. “Governor Newsom, if you are listening—you will have to realize what a failure of leadership AB 5 was. But you should also realize what a display of

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statesmanship it would be to now accept responsibility and correct course. Just look to the ultimate statesman, whose portrait graces our Assembly Chamber. Abraham Lincoln said, ‘I shall try to correct errors when shown to be errors; and I shall adopt new views so fast as they shall appear to be true views.’”

After the rally, many of the law’s victims who had come from all around the state stayed for a meeting in the Governor’s Office. I had asked Newsom to meet with them, but he refused, instead delegating the task to his Legislative Affairs Secretary. Then this staffer cancelled at the last moment—claiming he was “with the Governor”—and the group was left to talk to three low-level staff members who did not even seem to have titles.

Over the next month, as I prepared to bring my repeal measure to the Assembly Floor for a vote, I continued to focus my attempts at persuasion on the Governor. If he came out for repeal the Legislature would almost certainly pass it. I pointed out that his State of the State Address in February would be a “perfect opportunity to show the leadership Californians are looking for and call off the disastrous” law. I predicted that whether he supported the repeal “could define the rest of his governorship.” After the State of the State, I acknowledged that Newsom’s “failure to address the fallout from AB 5 was jarring,” but I said “he can still provide the leadership this moment demands by supporting” the repeal vote.

Meanwhile, the Special Interests behind AB 5 organized a “lobby day” at the Capitol. It is rather unusual to have a lobby day for a bill that has already passed. They were making it clear to legislators, and presumably Newsom, that there would be consequences for not toeing their line. When I asked one legislator to support the repeal, he literally shuddered and said, “I’ll get my throat slit.”

Without support from the Governor, the repeal vote failed on February 28. As I had said at the rally, that’s what happens when

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humanist values give way to brute political force.

NEWSOM'S DENIALISM

For seven months, Newsom never addressed the devastation caused by AB 5. At one live video event on Twitter, he asked people to tweet him their questions. Dozens asked about AB 5, far more than any other topic. He ignored all of them.

Finally, on April 24, well into the COVID era, Newsom was asked at a press conference about all the jobs that had been lost because of the law. He responded with one of the most stunning statements in California political history. Even though the fallout from the bill was one of the biggest stories in California for months—and even though I'd placed a book of hundreds of heartbreaking stories on his desk—he answered simply: “Respectfully, I’m not sure those jobs were killed.”

It's worth noting who the question came from. A reporter for *LA Blade*, an LGBT magazine, asked specifically about the law's harsh impacts on the LGBT community. Newsom, of course, had risen to prominence as an advocate for same-sex marriage. Yet here he was, silencing the voices of LGBT Californians, erasing their suffering. Later, when Newsom lauded a Supreme Court decision on LGBT workplace protections, I reminded him of this denialism: “When *LA Blade* told him about a loss of work in the LGBT community from AB 5, he dismissed their plight. For this Governor, social justice ends where the influence of special interests begins.”

To enact a harmful policy is a mistake of judgment, and redeemable. But to pretend the people you've harmed don't exist is a matter of character and fitness to lead. After months of appealing to the Governor's conscience, this was a moment where I began to think there was truly no point to it. In frustration, I tweeted, “‘Respectfully, I’m not sure those jobs were killed’ could be the first line of Gavin

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Newsom’s political obituary.” He has of course added many more lines since.

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To this day Newsom has never once so much as acknowledged any of AB 5’s many victims, with a single exception: Willie Brown, the former San Francisco Mayor and self-described “Ayatollah of the Assembly” who had given Newsom his political start.

In September, Politico reported that Brown lost his popular column for the San Francisco Chronicle, making him the “latest ensnared by California’s new gig-economy law limiting freelancers”—that is, “until onetime protege Gov. Gavin Newsom signed a bill.” The Politico story continued: “Earlier in the day, some of Brown’s powerful friends in politics contacted Newsom in an effort to get him to move quickly on the bill to get Brown’s Sunday column back in the paper as soon as possible.”

After Newsom complied, creating this “Willie Brown Exception,” he texted his former mentor: “I signed the bill, write the damn column!”

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The tragic human costs of AB 5 were heightened by Newsom’s COVID-19 lockdowns. This was part and parcel of the corruption, to be discussed in Chapter 6, that defined California’s COVID response. But one recent detail is worth noting here.

In August, we learned about a sordid scandal connected with AB 5’s passage. One of the Capitol’s most powerful legislators had an extended affair with a homeless domestic worker, which he began by impersonating (of all people) another legislator on the “What’s Your Price?” dating site. This same woman had testified before the Assembly

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Labor Committee as a witness in favor of AB 5, claiming the bill would help workers like her. At the time, her affair with the lawmaker, who coauthored the law, had been going on for years.

She had now gone on the record saying she was “exploited” by the lawmaker as well as by the California Labor Federation and other Special Interests to advance the bill. Here’s what she said in her own words, a quote that should be inscribed on the dome of our State Capitol: “These unions controlled my testimonies, got stories out of me, and then tossed me out. It was a payday for them, not to help domestic workers.” She added she had “never experienced abuse on this level” and was used as a “prop” to bolster AB 5.

Having at that point spent two years fighting against AB 5, it came as no surprise to me that the same interest groups that abuse workers collectively through legislation also abuse workers individually through the process of getting bills enacted. They’ll do whatever it takes to push their agenda. And many California politicians are only too willing to go along, no matter who gets hurt, and no matter that it’s ruining our state. When the story about the secret affair broke, it only served to confirm the larger scandal that’s played out in plain sight: Special Interests hijacking our government and running roughshod over anyone who gets in the way.

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Gavin Newsom held the job of lieutenant governor, with essentially no responsibilities, for eight years. He had all the time in the world to think about what he might do if he became governor. He came into office with the backwinds of a strong national economy. There was no virus in sight. He could have used his political capital as a first-year governor to tackle our state’s intractable problems. If he wasn’t willing to do that, he could at least have pursued an agenda embodying some

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kind of vision or values.

Instead, he used one of the highest and most influential offices there is, what he's called "the best job in the world," to play a shallow and soulless game. He maneuvered to enrich Special Interest groups in every way he could. He knowingly inflicted searing harm on the most vulnerable in our society and compounded our state's fundamental challenges. That was the prelude to COVID-19.