

MEASURE INDEFINITELY POSTPONED—S. RES. 19

Mr. LOTT. Mr. President, I ask unanimous consent that S. Res. 19, a resolution regarding committee funding, submitted earlier today be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand adjourned until 10 a.m., Thursday, January 5, and that when the Senate reconvenes the Journal of proceedings be deemed to have been approved to date, that the call of the calendar be waived, that no motions or resolutions come over under the rule, that the morning hour be deemed to have expired, and that the time until 10:15 a.m. be reserved for the two leaders. I further ask unanimous consent that at 10:15 the Senate resume consideration of Senate Resolution 14 under the terms of the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, if there are no further Senators seeking recognition, I ask unanimous consent that the Senate stand in adjournment under the previous order.

The PRESIDING OFFICER. Will the Senator withhold for a moment?

APPOINTMENTS BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair announces the following two appointments made by the Democratic leader, the Senator from Maine [Mr. MITCHELL], during the sine die adjournment:

Pursuant to provisions of Public Law 103-236, the appointment of Senator MOYNIHAN and Samuel P. Huntington, of New York, as members of the Commission on Protecting and Reducing Government Secrecy.

Pursuant to provisions of Public Law 100-458, Sec. 114(b)(1)(2), the reappointment of William Winter to a 6-year term on the Board of Trustees of the John C. Stennis Center for Public Training and Development, effective Oct. 11, 1994.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair announces the following appointment made by the Republican leader, the Senator from Kansas [Mr. DOLE], during the sine die adjournment:

Pursuant to provisions of Public Law 103-359, the appointment of Senator JOHN WARNER of Virginia, and David H. Dewhurst of Texas, as members of the Commission on the Roles and Capabilities of the United States Intelligence Community.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair announces the following appointment made by the President pro tempore, Senator BYRD of West Virginia, during the sine die adjournment:

Pursuant to provisions of Public Law 103-394, and upon the recommendation of the Republican leader, the appointment of James I. Shepard, of California, as a member of the National Bankruptcy Review Commission.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following resolutions:

H. Res. 2. Resolution informing the Senate that a quorum of the House of Representatives has assembled.

H. Res. 3. Resolution notifying the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

S. 2. A bill to make certain laws applicable to the legislative branch of the Federal Government.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1. A communication from the President of the United States, transmitting, consistent with the War Powers Resolution, a report on deployment of a U.S. Army peacekeeping contingent as part of the United Nations Protection Force in the Former Yugoslav Republic of Macedonia (received on December 22, 1994); to the Committee on Foreign Relations.

EC-2. A communication from the President of the United States, transmitting, consistent with the Use of Military Force Against Iraq Resolution, a report on the status of ef-

forts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council (received on January 3, 1995); to the Committee on Foreign Relations.

EC-3. A communication from the President of the United States, transmitting, pursuant to law, the third monthly report on the situation in Haiti (received on January 3, 1995); to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1. A petition from a citizen of the State of California; to the Committee on Rules and Administration.

PETITION FOR ELECTION CONTEST

INTRODUCTION

Now comes Petitioner and contestant Michael Huffington before the Senate of the United States. Petitioner prays that the Senate deny Dianne Feinstein a seat in the 104th Congress of the United States on the grounds that she has not been "duly elected" by a majority of legal ballots cast in the State of California in the election held on November 8, 1994. In the alternative, Petitioner asks that if the Senate seats Feinstein, it do so without prejudice because the misconduct, irregularities and fraud in the California election system were so widespread that the true results of the election cannot be known. Furthermore, Petitioner is informed and believes that additional investigation by the Senate before her seating becomes final will make clear that the serious systemic problems in California's and the nation's voter registration and verification system are so pervasive as to render the results of the 1994 California Senate election invalid.

In support thereof, the petitioner alleges the following:

JURISDICTION

1. The Senate of the United States, pursuant to Article 1, Section 5, clause 1 of the Constitution of the United States, is "the Judge of the Elections, Returns, and Qualifications of its own Members" and has final jurisdiction over election contests concerning its Members.

PARTIES

2. The Petitioner and contestant, Republican Party candidate for the Office of United States Senator from the State of California in the November 8, 1994 general election, is an elector and citizen of the State of California and the United States and a legal voter in the State of California in the November 8, 1994 general election. He is qualified to bring this petition, and brings this action as a contestant and on behalf of the almost 4,000,000 voters of the State who cast legal ballots on his behalf.

3. Dianne Feinstein, the Democrat candidate for the office of United States Senator from the State of California in the November 8, 1994 general election, was certified as the winner of the election by approximately 160,000 votes by the California Secretary of State on December 16, 1994, prior to numerous of the facts alleged herein being known.

FACTUAL ALLEGATIONS

4. Article I, Section 4, clause 2 of the Constitution of the United States grants the states the power to prescribe the time, places, and manner of holding elections for United States Senators and Representatives, subject to the congressional power to preempt state law on this subject.

5. The State of California has adopted a comprehensive California State Elections

Code which proscribes the time, place and manner of holding elections for the Office of United States Senator which was not preempted by federal law in this election. (CAL. ELEC. CODE §§ 1-35150)

6. Article II, Section 2 of the Constitution of the State of California proscribes the following qualifications for electors in the State of California: "A United States citizen 18 years of age and resident in this state may vote."

7. The California Elections Code provides that persons who no longer reside 28 days before a general election in the precinct for which they are registered may not vote in a general election unless they change their registration address 28 days or more before that general election. (CAL. ELEC. CODE §§ 305 and 311.6)

8. The California Elections Code provides that felons, deceased persons, minors, non-citizens, non-residents and others not qualified to vote may neither register nor vote in elections in the State. (CAL. ELEC. CODE §§ 100, 300.5, 701 and 14216)

9. The California Elections Code requires that precinct officials conducting the elections account for all the ballots and the signatures of voters who are given ballots at the precinct polling places on election day, and that these numbers be reconciled as part of the official count. (CAL. ELEC. CODE §§ 14005.5, 14006 and 14305)

10. The California Elections Code requires that precinct officials conducting the elections require all voters to identify themselves when voting and to sign the register of voters with their name and registration address. (CAL. ELEC. CODE § 14211)

I. FIRST GROUNDS OF CONTEST: A GENERAL PATTERN OF IRREGULARITIES, FRAUD, AND OTHER VIOLATIONS OF THE CALIFORNIA ELECTIONS CODE HAS RENDERED THE RESULT OF THE 1994 UNITED STATES SENATE ELECTION UNRELIABLE

11. The allegations contained in Paragraphs 1-10 are incorporated herein.

12. A study of 84 representative sample precincts in California reveals a general pattern of voting irregularities, illegal voting, and other violations of the California Elections Code in the conduct of the November 8, 1994 general election so widespread as to render the result of the United States Senate Election unreliable.

13. Based upon this study, on information and belief, Petitioner alleges that the violations, irregularity and fraud are so pervasive in the State of California that the certification of the United States Senate election is rendered unreliable. This study shows that:

a. California election workers made sufficient errors in counting and reconciling ballots in the sample precincts to render the result of the United States Senate election certified by the California Secretary of State unreliable. Comparing the number of ballots voted with the number of signatures on the voting rosters in the sample precincts reveals that election officials accepted an average discrepancy of one (1) vote per precinct in certifying the returns. This one (1) vote per precinct discrepancy results both from more ballots than signatures and more signatures than ballots. Projecting such discrepancies on a statewide basis would produce an error in the certification of approximately 20,000 to 25,000 votes.

b. The number of extra ballots certified by California election officials in the sample precincts plus the number of ballots not certified compared to the ballots reportedly sent to the Registrar of Elections from the sample precincts produces a discrepancy of 1.38 ballots per precinct. If extrapolated statewide, these tabulation errors would amount to approximately 35,000 votes in the

certification of the results. Such errors were more likely to occur in the heavily Democratic precincts of the precincts sampled.

c. Precinct workers permitted persons who did not meet the statutory qualifications for voting in that precinct to cast ballots and allowed persons who did not live in the precinct for which they were registered to cast illegal ballots in substantial numbers. Comparing the voting roster to registration books used on election day shows that the number of voters who failed to sign the registration book with any residential address is approximately 3.5 votes per precinct. Extrapolated statewide, this could reveal as many as 85,000 improperly cast ballots, which are probably illegal.

d. Comparing the voting rosters with the registration books used on election day shows that the number of voters who signed the roster with an address different from their registration address and who resided outside of the precinct in which they voted or who did not sign any address at all was approximately .93 votes per precinct. Extrapolated statewide, this could result in as many as 23,000 improperly cast ballots, which are probably illegal. These ballots are in addition to the 85,000 ballots reported above. Moreover, persons registered as Democrats in the precincts sampled were twice as likely as persons registered as Republicans to sign an address different than where they were living.

e. Approximately seven (7) voters per precinct voted from an address they had listed as their former address on a National Change of Address ("NCOA") request from the voter had filed. Extrapolated statewide, this would result in as many as 175,000 ballots being improperly cast. If only one-half of these voters had actually changed their residence but were allowed to vote, it would produce approximately 88,000 improperly cast ballots.

f. Of those who cast absentee ballots, approximately 1.7 voters per precinct sampled had filed a NCOA request with the post office for the address from which they voted in the November 8, 1994 election. Extrapolated statewide, this would result in as many as 43,000 improperly cast ballots. If only one-quarter of these voters cast their ballot improperly it would produce 10,700 such ballots.

14. In sum, it is alleged on information and belief that extrapolating the results of this study to the entire State of California will present a prima facie case that over 170,000 votes were illegally cast in the November 8, 1994 general election, more than Feinstein's certified margin of victory and large enough to cast doubt upon the certification of the United States Senate election.

15. The study in the sample precincts also suggests that if the percentage figures were projected for the entire state of California, more Democrat voters than Republican voters cast illegal ballots.

16. In addition to the more than 170,000 projected illegal votes indicated by the study of sample precincts in the State of California, an ongoing investigation of voter fraud in California reveals that numerous persons not qualified to vote in the 1994 general election in California, including dead persons who were recorded as having voted in November, remained on the registration rolls and did vote in that election, thereby rendering the results of the 1994 United States Senate election unreliable.

17. On November 8, 1994, precinct officials allowed persons who were not residing in the precinct from which they voted 28 days before the election, and therefore were not eligible to vote, to cast ballots in such numbers that the results of the 1994 California United States Senate election cannot be reliably known.

18. On November 8, 1994, precinct officials and election officials allowed persons not qualified to vote, including, it is alleged on information and belief, non-citizens who were motivated by defeating a ballot initiative measure entitled "Proposition 187", to cast illegal votes in such numbers that the results of the 1994 California United States Senate election cannot be reliably known.

19. On and before the November 8, 1994 election, election officials allowed persons to cast absentee ballots in a manner not authorized by law in such numbers that the result of the 1994 California United States Senate election cannot be reliably known.

20. The irregularities, mistakes and fraud described in the above paragraphs are not isolated and are so pervasive as to constitute a general pattern in the conduct of the November 8, 1994 general election that renders the certification of the California United States Senate election unreliable.

II. SECOND GROUNDS OF CONTEST: STATE, COUNTY AND PRECINCT ELECTION OFFICIALS INADEQUATELY ADMINISTERED THE 1994 GENERAL ELECTION AND FAILED TO ENSURE THE SANCTITY OF THE ELECTORAL PROCESS IN CALIFORNIA SO THAT THE RESULTS OF THE 1994 UNITED STATES SENATE ELECTION ARE IN DOUBT

21. The allegations contained in Paragraphs 1-20 are incorporated herein.

22. The public officials charged with conducting the elections in the State of California did not enforce or satisfy the requirements of the California Elections Code in the conduct of the 1994 United States Senate Election so that the result of the California United States Senate election cannot be reliably known without further investigation.

23. The Registrars of Election allowed numerous persons to register to vote in the 1994 general election in California who were not qualified under the State's Constitution or laws to be registered voters in the State in that election.

24. The Registrars of Election allowed numerous persons to register to vote more than once in the November 8, 1994 general election in California, a violation of the California Elections Code.

25. On November 8, 1994, precinct officials allowed to be deposited into the ballot boxes more ballots than there were voters who presented themselves for the purpose of voting in such numbers that the result of the 1994 California United States Senate election cannot be reliably known.

26. On November 8, 1994, precinct officials failed to deposit into the ballot boxes all the ballots that were given to voters who presented themselves for the purpose of voting and these precinct officials failed to account for the reason that these ballots were not deposited in such numbers that the result of the 1994 California United States Senate election cannot be reliably known.

27. These irregularities in process were known or should have been known to the Secretary of State of California prior to the election and prior to his issuance of the certificate of election in the United States Senate election, yet he refused to investigate these problems or to take corrective action both prior to the election and during the canvass to insure that the certificate of election was reliable.

28. The failures of the election officials which are complained of herein relate to duties which are mandatory in nature and not directory in nature.

29. These irregularities in process were known or should have been known by the county Registrars since they appear on the original election documents containing the totals certified to the Secretary of State during the canvass period. Notwithstanding this fact, the Registrars failed to resolve the

discrepancies that appeared on the documents sent to them by the precinct officials.

30. Because of these irregularities and discrepancies, the Secretary of State's certificate of election is unreliable and the margin between the two major party candidates is less than the number of unaccounted for ballots and illegal ballots cast in the November 8, 1994 election.

31. The total number of illegal ballots cast or ballots unaccounted for and the insufficiency of ballots in some precincts and excess of ballots in other precincts is sufficiently large throughout the State of California to cast doubt on the election certificate issued by the Secretary of State and to cast doubt on which of the two major party candidates won the election for the United States Senate.

32. These failures of the election officials cannot be remedied by a recount of the votes or the remedies available in the California Elections Code for an election contest.

33. Because California lacks any reliable verification system in its registration process to determine the identity and eligibility of voters, the failure of election officials to enforce the statutory requirements makes unreliable the certificate of election in close contests, such as the contest at issue here.

34. The general pattern of irregularities in the election process and illegal ballots cast is so pervasive that the results of the 1994 United States Senate election are in doubt and, upon information and belief, it is alleged that if the illegal ballots cast could be removed from the certificate so issued, the result of the election would be changed.

III. THIRD GROUNDS OF CONTEST: THE IRREGULARITIES AND ERRORS COMPLAINED OF CONSTITUTE A VIOLATION OF THE 14TH AMENDMENT

35. The allegations contained in paragraphs 1-34 are incorporated herein.

36. The failure of California to provide a reliable election system whereby only legal voters are allowed to cast ballots and illegal ballots are not counted and to administer the 1994 Senate election according to its own Constitution and Elections Code constitutes a denial of 14th Amendment protections to the legal voters of California in that such failure structurally dilutes the valid votes cast for both candidates for United States Senator in 1994.

IV. PRAYER FOR RELIEF

That based upon the foregoing, the Petitioner and Contestant pray:

1. That on the day of covering, the Secretary of the Senate be instructed to not accept the certification from the State of California for the 1994 United States Senate election.

2. That, in the alternative, Dianne Feinstein be seated without prejudice to the rights of the Senate to revoke her seating by majority vote after full investigation of the conduct of the election.

3. That the matter be referred to the Rules and Administration Committee with instructions to investigate immediately the allegations set forth above in order to advise the Senate on the action to take in this matter.

4. That upon finding the facts to be substantially as set forth in the petition or upon receipt of additional evidence, to declare the Senate seat in question be vacant and request that the State of California conduct a new election, or in the alternative, to declare the person who received the highest number of legal votes duly elected if such numbers of legal votes can be determined.

5. That the Senate grant such additional relief that the Senate deems warranted by the facts.

REPORT OF COMMITTEE SUBMITTED DURING SINE DIE ADJOURNMENT

Pursuant to the order of the Senate of December 1, 1994, the following report was submitted on January 3, 1995, during the sine die adjournment of the Senate:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Special Report entitled "Madison Guaranty S&L and the Whitewater Development Corporation Washington, DC Phase: Inquiry Into the U.S. Park Police Investigation of the Death of White House Deputy Counsel Vincent W. Foster, Jr." (Rept. No. 103-433).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KEMPTHORNE (for himself, Mr. DOLE, Mr. GLENN, Mr. ROTH, Mr. DOMENICI, Mr. EXON, Mr. COVERDELL, Mr. BROWN, Mr. BURNS, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GREGG, Mr. BENNETT, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BOND, Mr. BREAUX, Mr. CAMPBELL, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DEWINE, Mrs. FEINSTEIN, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. INHOFE, Mrs. KASSEBAUM, Mr. KYL, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PRESSLER, Mr. ROBB, Mr. SANTORUM, Mr. SHELBY, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, and Mr. WARNER):

S. 1. A bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. GRASSLEY (for himself, Mr. LIEBERMAN, Mr. DOLE, Mr. NICKLES, Mr. ROTH, Mr. GLENN, Mr. SMITH, Mr. SPECTER, Mr. BROWN, Mr. INHOFE, Mr. THOMPSON, Ms. SNOWE, Mr. ABRAHAM, Mr. SANTORUM, Mr. THOMAS, Mr. COHEN, Mr. CRAIG, Mrs. BOXER, Mr. ROBB, Mr. KOHL, Mr. WARNER, Mr. BAUCUS, Mr. HELMS, Mr. GREGG, Mr. DEWINE, Mr. CAMPBELL, Mr. BENNETT, Mr. MACK, Mr. KERREY, Mrs. KASSEBAUM, and Mr. LOTT):

S. 2. A bill to make certain laws applicable to the legislative branch of the Federal Government; read twice.

By Mr. DOLE (for himself, Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, Mr.

GRAMM, Mr. SANTORUM, Mr. ABRAHAM, Mr. DEWINE, and Mr. KYL):

S. 3. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. MCCAIN, Mr. COATS, Mr. KYL, Mr. HELMS, Mr. MURKOWSKI, Mr. ASHCROFT, Mr. BOND, Mr. GRAMS, and Mr. GRAMM):

S. 4. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. DOLE (for himself, Mr. HELMS, Mr. THURMOND, Mr. COHEN, Mr. WARNER, Mrs. HUTCHISON, Mr. MCCAIN, Mr. LOTT, Mr. NICKLES, and Mr. MACK):

S. 5. A bill to clarify the war powers of Congress and the President in the post-Cold War period; to the Committee on Foreign Relations.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. BREAUX, Ms. MIKULSKI, Mr. REID, Mr. ROCKEFELLER, Mr. DODD, Mr. KERRY, Mr. DORGAN, and Ms. MOSELEY-BRAUN):

S. 6. A bill to replace certain Federal job training programs by developing a training account system to provide individuals the opportunity to choose the type of training and employment-related services that most closely meet the needs of such individuals, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. REID, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. DODD, Mr. BREAUX, Ms. MOSELEY-BRAUN, Mr. PELL, Mrs. MURRAY, and Mr. INOUE):

S. 7. A bill to provide for health care reform through health insurance market reform and assistance for small business and families, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself, Mr. BREAUX, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. REID, Mr. KERRY, Mrs. MURRAY, Mr. DORGAN, Ms. MOSELEY-BRAUN, and Mr. ROBB):

S. 8. A bill to amend title IV of the Social Security Act to reduce teenage pregnancy, to encourage parental responsibility, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. EXON, Ms. MIKULSKI, Mr. BREAUX, Mr. ROBB, Mr. KERRY, Mr. PELL, Ms. MOSELEY-BRAUN, and Mr. HARKIN):

S. 9. A bill to direct the Senate and the House of Representatives to enact legislation on the budget for fiscal years 1996 through 2003 that would balance the budget by fiscal year 2003; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. DASCHLE (for himself, Mr. GLENN, Mr. LEVIN, Ms. MIKULSKI, Mr. BREAUX, Mr. KERRY, Ms. MOSELEY-BRAUN, and Mr. HARKIN):

S. 10. A bill to make certain laws applicable to the legislative branch of the Federal Government, to reform lobbying registration and disclosure requirements, to amend the gift rules of the Senate and the House of Representatives, and to reform the Federal election laws applicable to the Congress; to the Committee on Governmental Affairs.

By Mr. KYL:

S. 11. A bill to award grants to States to promote the development of alternative dis-