

TERMINATING INVESTIGATION OF LOUISIANA ELECTION

Mr. WARNER. Mr. President, I wish to advise the Senate that the Committee on Rules and Administration met this morning at 10 o'clock for the purpose of voting in executive session to review the investigation by that committee into the 1996 Louisiana election. The committee reviewed the evidence, heard the report of the chairman, then voted unanimously on a resolution to terminate the investigation by the Committee on Rules and Administration into that election.

I ask unanimous consent that the text of my remarks before the Rules Committee this morning, the text of the committee motion, and several letters, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF CHAIRMAN JOHN WARNER, COMMITTEE ON RULES AND ADMINISTRATION, LOUISIANA CONTESTED ELECTION, OCTOBER 1, 1997

INTRODUCTION

This business meeting today is called to brief the Committee on the findings of our preliminary investigation of allegations that fraud, irregularities, or other errors affected the outcome of the 1996 Senate election in Louisiana. Our focus primarily will be on those matters the Committee has investigated since the Committee's vote on July 31 to continue the investigation.

HISTORY OF CONTEST PRIOR TO JULY 31, 1997

Mr. Jenkins' petition addresses one of the closest Senate contested cases in history: Senator Landrieu's margin was just under 6,000 votes out of 1.7 million cast. Mr. Jenkins' amended petition alleged that "a pattern of misconduct, irregularities, fraud, and political machine corruption violating state and federal law changed the result of the election . . ." He also alleged that "state, parish, and precinct officials inadequately administered the 1996 general election and failed to ensure the sanctity of the electoral process in Louisiana so that the results of the 1996 United States Senate election are in doubt."

On April 10, two outside counsel, Bill Canfield and Robert Bauer, respectively selected by the majority and minority members of this Committee to review the pleadings filed by the parties, reported their assessment of only the following: Jenkins' petition and related evidence, the rebuttal material submitted by Senator Landrieu, and the surrebuttal information presented by Mr. Jenkins. It is important to note that their review did not include any field investigation. These counsel jointly recommended that the allegations of fraud, including vote buying, multiple voting, and fraudulent registration, should be investigated by the Committee. They also recommended that the next phase be conducted under their direction, subject to guidance from the Chairman and the Ranking Member. Counsel further recommended that certain types of evidence be dismissed, such as evidence of mismatched signatures and phantom votes. On April 15, the Committee heard from Mr. Jenkins and counsel for Senator Landrieu concerning the Bauer-Canfield joint recommendations.

On April 17, the Committee, voting on partisan lines, adopted much of the Bauer-Canfield recommendation, but directed the Chairman to conduct a preliminary investigation. In doing so, the Committee indi-

cated that it would not ignore potential evidence of fraud, including mismatched signatures and phantom voting. I also announced that I desired that the investigation be conducted by a team of outside counsel with extensive investigative experience.

Shortly after the Committee vote on April 17, Senator Ford, on behalf of the minority, expressed his desire to conduct the investigation jointly, and requested that an investigative protocol be developed between counsel for the majority, McGuire Woods Battle & Boothe, and counsel for the minority, Perkins Cole. At the same time, I initiated efforts to secure the assistance of detailees from the FBI. After extensive negotiation and the adoption of a protocol, we were able to secure two detailees from the FBI, and additional personnel from the General Accounting Office, and we negotiated the issuance of subpoenas for election records and documents from Mr. Jenkins and Senator Landrieu.

In the meantime, our majority outside counsel from McGuire Woods Battle & Boothe, headed by Richard Cullen and George Terwilliger, began a review of Louisiana's election laws and to what extent these laws and implementing regulations were followed in the November election. This examination revealed that many of the laws and regulations—statutory safeguards designed to protect the integrity of the election system—had not been observed: Fraud could have occurred.

The full preliminary field investigation then began in earnest on June 9, when two FBI agents were detailed to the Committee, and arrived in New Orleans to work with assistance from two retired FBI agents hired by the Committee. Outside counsel for majority and minority provided guidance as to the agents' activities.

A short twelve working days later, the minority unexpectedly pulled out of the investigation and the FBI terminated the detail of the two agents, despite my request that the detail be continued.

During those twelve days, our investigative teams had interviewed a number of witnesses who had submitted taped statements to Petitioner that they participated in or observed vote fraud. As has been well publicized by the minority, these witnesses recanted their testimony, stating that they had been paid and coached by a person hired by the Petitioner to make up their stories of fraudulent voting.

The complete picture on these witnesses, however, was complicated by the fact that there were reports of threats associated with the witnesses' initial reports, making it unclear if those who did recant were truthful in the first instance, or truthful in their recantation. It is also clear that many of these witnesses were acquaintances who clearly had the opportunity to discuss their testimony. Moreover, a small number of witnesses, alleging fraudulent voting, stuck to their original testimony and never recanted. Senator Ford and I made separate referrals of the evidence of alleged witness tampering and threats to the Department of Justice. In addition, I made a referral of this information to Doug Moreau, the District Attorney for East Baton Rouge, Louisiana, who had opened his own investigation into allegations of election fraud during 1996.

Meanwhile, the Committee had charged detailees from the Government Accounting Office to examine election records for discrepancies between vote totals recorded on election documents and machines. This examination focused specifically on four of the seven categories of "phantom votes" alleged by Petitioner.

An interim report provided to the Committee on July 9 revealed that the allegations of

widespread irregularities in these four categories could not be substantiated. While this review confirmed many of the discrepancies identified by Mr. Jenkins, the GAO detailees concluded that all but 153 of the several thousand "phantom votes" were explainable. The problems with Petitioner's analysis resulted from three primary factors: (1) transcription errors in the election records themselves; (2) errors in the compilation of numerical results by Mr. Jenkins; and (3) the fact that Mr. Jenkins did not have available to him all of the election documents which were available to the Committee. In short, many errors identified by Mr. Jenkins could be explained by our review of certain election records.

It is important to note, however, that while the irregularities in these four categories were not nearly as widespread as alleged by Mr. Jenkins, there were a number of precincts that did contain errors which might have been the result of fraudulent activities. In addition, there was one instance where 100 votes were erroneously credited to Senator Landrieu.

Let me for a minute return to the withdrawal of the minority. When the minority withdrew from this investigation, they focused on two facts. First, a number of witnesses to fraud had recanted their original testimony. Second, the allegations of widespread irregularities in four of seven categories raised by Mr. Jenkins were not significant enough to impact the election.

At that time, however, there were other significant areas of potential fraud which had not been examined at all. Mr. Jenkins had submitted hundreds of allegedly mismatched signatures which merited audit. He had alleged that massive numbers of voters had not completed legally required forms, which merited review. He had identified over one thousand voters registered to housing that had been abandoned. Petitioner had made allegations of fraudulent registration that had not been examined even though the Bauer-Canfield report had cited it as worthy of review. And allegations of political machine corruption, including the illegal use of corporate funds, deserved review. Remembering that the investigation had already ascertained that many of the statutory safeguards had been ignored, there was clearly the possibility that fraud could have occurred in these areas. It was our duty to further investigate these significant allegations.

On July 31, the Committee affirmed my recommendation to continue the investigation, approved the use of designated funds and authorized me to issue subpoenas.

ACTIONS SINCE JULY 31, 1997

Immediately after the Committee's action of July 31, I wrote the Attorney General of the United States to request the reassignment of FBI agents to the Committee; this request was rejected. As an alternative, I then hired three additional retired FBI agents using Committee funds. I also sought renewed assistance from GAO, and after significant delay, they provided personnel to review election records assistance in late-August and accountants to examine financial documents in early September. To date, our investigation has encompassed a review of literally thousands of documents and the interview of hundreds of persons.

Subsequent to July 31, I issued 40 subpoenas to individuals, organizations, and companies with knowledge or documents related to the election. Some of these were for personal appearance at hearings, some for documents, and some for both. I would like to thank the United States Marshal's office in New Orleans for their help in serving many of these subpoenas in a timely and professional manner. These 40 subpoenas were in addition to

the 134 Senator Ford and I agreed to issue in May for election records and documents from the parties.

The Committee also held four full days of field hearings in Louisiana and another hearing here in Washington. I will turn to the findings of these hearings in a moment.

Our sole focus was to fairly and impartially gather a body of evidence—to determine the presence or absence of fraud or irregularities—upon which the Committee, and ultimately the Senate, could make a reasoned judgment with regard to the petition submitted by Mr. Jenkins.

RESULTS: ELECTION RECORDS AND INTERVIEWS

Election records, if properly prepared and maintained, are the post-election means to a prompt and reliable assessment that fraud did not penetrate an election. Indeed, with the advent of electronic voting machines, these records are often the only evidence available to demonstrate—corroborate—that an election was conducted properly and that the machines accurately reflect legitimate votes. Without reliable records, investigation of vote fraud allegations must involve time consuming and intrusive examination of the actions of both individual voters and groups involved in the political process.

If the legal requirements of the registration and voting process are adhered to and reliable records of the same are created and maintained, allegations of fraud can be expeditiously examined. If widespread fraud occurred, reliable records should readily yield evidence of the vote fraud. However, the absence of such records and effective registration and voting processes creates opportunity for fraud to exist.

Thus, candidates, election officials, and voters all share a common interest in electoral procedures that meet the requirements of the law. Anything less challenges the fundamental public interest in reliable and final elections.

Review of "suspect" precincts and voter interviews

Our GAO detailees have thoroughly examined the election documents in 34 precincts across the state. These precincts were identified by the Committee as "suspect" because of a variety of factors: Places where multiple voting was alleged, unusual registration patterns, late closing of machines, etc.

This analysis revealed numerous irregularities with these records: names on a poll list but not on a register, and vice versa; poll lists which are supposed to be duplicate have names out of order; and names on poll lists more than once.

Had irregularities not existed and had other safeguards not been ignored, our investigation may have been completed sooner. But these irregularities did exist, warranting further examination of a sampling of voters to assess whether this election was tainted by—and affected by—fraud. In certain of these precincts, Committee staff compared signatures on precinct registers with the signatures on registration cards to identify potentially questionable voters.

Our investigators have now interviewed voters from a third of the "suspect" precincts. With few exceptions, these voters have confirmed the fact that they voted. In the few exceptions of fraud that we have uncovered, there is no evidence of an organized, widespread effort to secure fraudulent votes on behalf of any individual, and certainly no evidence of any effort to secure votes specifically on behalf of Senator Landrieu.

Duplicate social security numbers

We have identified over 1500 voters with the same social security number as another voter, and we have learned that a number of these pairs of voters both voted. However,

our investigation has revealed no scheme or effort to cast illegal votes, and more significantly, the evidence we have gathered to date indicates that the majority of these duplicate social security numbers appear to be the result of erroneous entry of social security numbers.

Voters registered at abandoned housing

We have reviewed Petitioner's allegations that over a thousand voters in Orleans Parish were registered at housing that had been abandoned before the election. First, our review of a sample of these voters revealed that none of them had registered before the housing became abandoned. Second, a comparison of registration records and records from the Housing Authority of New Orleans revealed that of 522 voters from four precincts that were reviewed, 41% still lived in housing that Mr. Jenkins alleged was vacant. Third, an additional 45% of these 522 voters had moved to other housing within Orleans parish, and were legally permitted to vote in their old precinct.

Inactive voters required by law to complete address confirmation forms

Under Louisiana law (18:192), address confirmation postcards are sent to voters every four years. Voters whose postcards are returned because the addresses are apparently invalid, are placed on "inactive status", and these voters are required by law to complete an "Address Confirmation Sheet" confirming that they still live within the parish, before they are permitted to vote.

Petitioner alleged that approximately half of the inactive voters in certain parishes did not fill out the required forms. He also expressed concern that the list of inactive voters is available to the public, and thus could be used to send imposters to the polls.

Of 170 precincts reviewed in Orleans Parish, we found approximately one voter per precinct who had not completed the requisite form and no more than seven in any one precinct. Overall, 55% of those required to fill out the form did not do so. In addition, in the 29 "suspect precincts" in Orleans Parish, we found that few voters had completed the form as required, but this still only amounted to approximately two voters per precinct. We also attempted to contact voters in the suspect precincts who should have completed these forms. Although many could not be contacted, of the nine we did contact, each of them confirmed that they voted, and several reported that they had completed the form, indicating sloppy record keeping.

While it may be argued that these are illegal votes under Louisiana law, it is also clear that these are errors that could have been brought to the attention of the precinct commissioners at the time of the election, and the issue may be waived for failing to raise it at that time. In addition, the disparate nature of these irregularities is far more indicative of negligence than a pattern of fraud.

ILLEGAL CORPORATE CONTRIBUTIONS

We have attempted to examine whether local political organizations or gambling-related corporations illegally influenced the election in violating federal and state campaign finance laws. Foremost in this review was an examination of the activities of a group known as the Louisiana Independent Federation of Electors ("LIFE") and the marketing firm utilized by LIFE, Carl Mullican Communications, and those of several gambling companies.

Our review indicates that some federal and state election campaign laws may have been ignored, avoided, and even intentionally violated. There is evidence that gambling money used to pay canvassers, and donations given to local political organizations, may

have resulted in illegal donations to federal candidates. However, there is no significant body of evidence that this use of money or other infractions of campaign laws was intended to aid the campaign of Senator Landrieu. Rather, the activities appear to be directed at local initiatives and elections. The absence of significant evidence of an organized effort to directly and illegally assist Senator Landrieu makes it appropriate to let the existing system (i.e., the Federal Election Commission and appropriate state authorities) assess where possible election campaign violations might have occurred.

VOTE BUYING AND TRANSPORTING VOTERS TO THE POLLS

There is evidence that voters were transported to the polls which is illegal under most circumstances under Louisiana law. However, our investigation has revealed little evidence of fraudulent vote buying, and no evidence of an organized effort to buy thousands of votes so as to impact the Senate election.

EMPLOYEES FORCED TO CAMPAIGN

We did confirm the existence of an organized effort to use city employees in support of election efforts. We did not, however, find any evidence that this was directed toward the benefit of Senator Landrieu. Nor did we find any significant evidence of illegal coercion. Moreover, this type of evidence normally does not support an election contest.

AREAS UNDER EXAMINATION

Before making my recommendation with regard to Mr. Jenkins' petition, I note that there are two areas of examination that require greater discussion.

First, we were unable to conduct a direct examination of possible fraudulent registration by using the State's voter registration computer database. This system, when prepared and operated properly, is a significant safeguard against multiple registrations. In addition to the many voters registered with the same social security number, we learned that there are over 200,000 registrants who have no social security number in the database, making it easier for fraudulent registrations to be submitted without detection.

A federal district court has ruled that the Commissioner of Elections may no longer collect social security numbers, raising issues about the propriety of his maintaining those he has collected. This issue caused the Commissioner to refuse to comply voluntarily with a subpoena, and to advise us that he would resist our request in court. This position has been confirmed by the fact that Doug Moreau, the District Attorney for East Baton Rouge, is currently in court litigating the Commissioner's refusal to provide him a copy of the state voter registration computer database (which include social security numbers). Mr. Moreau is seeking these records to assist him in his investigation of possible illegal election activities during the November 1996 elections.

Second, under Louisiana law (18:102(1)), a convicted felon may not legally vote until he has completed this sentence, including any period of parole or suspension. These voters are supposed to be taken off the voter database and not be allowed to vote. It was recently reported that there are over 100,000 convicted felons that may not have been purged from the voter registration records, possibly leading to illegal votes. The Office of the Commissioner of Elections advised Committee staff last week that only about 2,100 felons remained on the registration records, with the number that voted less than the 2,100. Yesterday, it was reported in Louisiana press that parish registers are finding felons on their registration rolls at a

number higher than indicated by the Commissioner of Elections.

I spoke with the Governor last evening and he assured me—as he also stated in his letter to me which I received on Monday of this week—that he would call for a bipartisan investigation of this issue of felons possibly voting in the election. I also spoke with the East Baton Rouge District Attorney who informed me that he would be examining this issue also.

There is no way, at this time, to itemize the amount of time and Committee effort that could be expended in assessing these two areas, although it clearly could be very substantial.

RECOMMENDATION

While it is not necessary that the evidence gathered during a preliminary investigation prove that the election outcome was the result of fraud or irregularities, that evidence must indicate that further investigation is likely to result in that conclusion before proceeding to a full and lengthy investigation.

The facts submitted by Petitioner, and gathered by this Committee to date, do not meet that level of proof. It may be impossible, given the state of observance—or lack thereof—of election laws, and lax record keeping by Louisiana officials, for Petitioner to ever overcome this burden. This observation has been made by the Governor and the Moreau.

But the failure of election safeguards and lax record keeping do not suffice to overcome an election. More is required. There must ultimately be proof that the election would have been decided differently, or proof of such a magnitude of fraud, irregularities, or other errors that the true result of the election are unknown.

While there were some irregularities in this election, and isolated incidences of fraud, there is insufficient evidence in the aggregate, at this time, to indicate further investigation would result in the degree of evidence necessary to overcome petitioner's burden.

Our investigation to date has revealed a failure of safeguards and discrepancies in records. It has revealed possible campaign finance violations, although no indication of such violations on the part of Senator Landrieu. It also has revealed isolated instances of fraudulent or multiple voting and improper or duplicate registration. But it has not revealed an organized, widespread effort to illegally affect the outcome of this election. It has not revealed an organized, widespread effort to buy votes, or to procure multiple votes, or secure fraudulent registrations. It has not revealed such gross irregularities in the election and record keeping process that—by themselves and in the absence of massive fraud—meet the burden, which is always on the plaintiff, to prove that fraud or irregularities affected the outcome of the election. Finally, it has never been alleged, and no evidence has been uncovered, that Senator Landrieu was involved in any fraudulent election activities.

I would like to discuss briefly the challenges faced by the Committee in conducting this investigation—and I mean problems beyond the very difficult ones caused by the partisan division on the Committee concerning the conduct of the investigation.

The last time the Committee handled an election contest alleging voter fraud was in the *Hurley v. Chavez* contest in 1953–54. In 1954, there were actual paper ballots which could be reviewed, rather than electronic voting machines which print out results you hope are reliable. In 1954, there was no Federal Election Commission and few, if any, prohibitions on how money could be spent on

campaigns. In 1954, there was not the communications system which made it easy for candidates, groups, and others to work together, both legally and illegally, by fax, by e-mail, or by cell phone.

But in both 1954 and 1997, there were many of the same problems with which this Committee has struggled: the need to balance a voter's right to privacy versus the need for information; the tendency to assume that all elections should be run perfectly even though most of the individuals actually running the precincts are volunteers putting in long hours with limited training; and the difficulty in deciding how and whether to determine if irregularities had an impact on the outcome of the election.

All of these have been problems which the Committee has faced and overcome in fulfilling its constitutional duty as “the Judge of the Elections, Returns, and Qualifications of its own Members...”

From the inception of this case, I have viewed the obligation of this Committee to be to fairly and objectively judge all the facts, with the Senate as our client. I submit to this Committee and the Senate a record which I believe is a credible discharge of the Committee's duty to the Senate.

COMMITTEE ON RULES AND ADMINISTRATION— COMMITTEE MOTION, OCTOBER 1, 1997

1. Whereas Louis “Woody” Jenkins filed a Petition for Election Contest with the United States Senate on December 5, 1996 and an Amended Petition for Election Contest on December 17, 1996, and Senator Mary Landrieu filed a Request for Summary Dismissal on January 17, 1997; and Petitioner Jenkins filed Petitioner's Answer to Request for Summary Dismissal on February 7, 1997;

2. Whereas the Committee on April 17, 1997 authorized “the Chairman, in consultation with the ranking minority member, to direct and conduct an Investigation of such scope as deemed necessary by the Chairman, into illegal or improper activities to determine the existence or absence of a body of fact that would justify the Senate in making the determination that fraud, irregularities or other errors, in the aggregate, affected the outcome of the election for United States Senator in the state of Louisiana in 1996”;

3. Whereas the Committee on July 31, 1997 authorized “the Chairman to continue the investigation of the 1996 election for United States Senator from Louisiana authorized by the Committee Motion of April 17, 1997”;

4. Whereas during the Committee's continued preliminary investigation, the Committee examined a number of areas of potential fraud, irregularities or other errors which had not been reviewed before July 31, including but not limited to the following allegations:

(A) use of funds from gambling interests to influence the Senate election;

(B) inaccurate and unreliable election records in certain precincts;

(C) apparent discrepancies in voters' signatures;

(D) duplicate voter registrations;

(E) illegal transportation of voters to the polls;

(F) improper and unreported campaign expenditures;

(G) voters registered at vacant public housing; and

(H) voters failing to submit required address confirmation forms;

5. Whereas the preliminary investigation has uncovered evidence that many of the statutory and regulatory safeguards meant to protect the integrity of the registration, voting, and campaign finance processes were violated, ignored, or enforced unevenly by election officials and others;

6. Whereas the Chairman has throughout this preliminary investigation conferred with the Governor of Louisiana and the District Attorney for East Baton Rouge, Louisiana, and both of these officials have written regarding their concerns about the election procedures, the violations of many election safeguards, and the absence of records corroborating the election results;

7. Whereas the Governor of Louisiana wrote to Chairman Warner on September 29, 1997, and concluded that:

“These issues are not about party affiliation. They are not about individual candidates or specific elections, even though this election in question clearly has illustrated some of the problems. The issue is the integrity and sanctity of our election process and its results. I share wholeheartedly with you your basic premise that our foremost duty is to ensure that our elections are conducted fairly and in accordance with law.

“I particularly share your frustration that our system of record keeping precludes adequate standards of accountability and that our lax enforcement substantially lowers public confidence in our elections. Witness to this is the fact that we recently learned that we have thousands of felons still on the voter rolls.

“Regardless of the future course of your investigation with the Rules Committee, Louisiana has a duty and an obligation to fashion a remedy for the many ills which have so amply been illustrated throughout these past months.

“Therefore, I will call for a bipartisan state legislative initiative with hearings focusing on every element of our registration and election process, involving Democrats and Republicans, and all appropriate state and local registrars, elections officials, and enforcement authorities.”

8. Whereas the District Attorney for East Baton Rouge wrote to the Governor of Louisiana on September 2, 1997, and concluded that:

“We are currently conducting an investigation into election and voter registration irregularities. During the investigation, we have come across many concerns, including a number which I feel should be brought to your attention. That is because it appears that many of the Louisiana laws which were designed to assure the integrity of voter registration records and voting procedures may not be achieving the goals intended by the Legislature when enacted. The immediacy of the situation is that if the current procedures are not addressed, then the simple passage of time will result in the inability to insure that our laws provide either registration or election result integrity.

* * * * *

“These various practices, among others, create the opportunity for fraud in registration and voting and make it, for all practical purposes, impossible to discover, after the fact, if it occurred.”

9. Whereas the breakdowns in Louisiana's electoral system indicate significant institutional problems which create the opportunity for fraud and irregularities to affect the outcome of Louisiana's elections; and

10. Whereas, notwithstanding the breakdowns in Louisiana's electoral safeguards, the Committee has not found a cumulative body of evidence of fraud, irregularities, or other errors—after review of a significant number of potential areas of fraud, irregularities, or other errors—to meet the petitioner's burden, as determined by Senate precedent, which burden is: to show not only proof of fraud or irregularities, but also that, upon completion of a full investigation, such fraud or irregularities, in the aggregate, did affect the result of the election or clearly make the true result of the election unknown.

Now, therefore, the committee hereby states that it finds that the evidence collected to date does not meet the applicable burden to justify further consideration of the amended petition by the Committee, or by the Senate, and the Committee terminates its investigation of the 1996 election for U.S. Senator from Louisiana and directs the Chairman to so inform the Senate;

The committee further hereby directs the Chairman to prepare a committee report, with minority or supplemental views as appropriate, which details the actions taken by the Committee, the legal standards applicable to the petition, and the evidence developed during the preliminary investigation;

The committee further hereby directs the Chairman to determine whether the evidence obtained during the preliminary investigation indicates that evidence of violations of federal or state election, campaign finance, or other laws or regulations should be referred to the Governor of Louisiana, the Department of Justice, the Federal Election Commission, law enforcement authorities in Louisiana, or other investigative authorities, and to report such determinations to the Committee for further action by the Committee and the Senate, according to Senate Rules; and

The committee further hereby authorizes the Chairman to maintain appropriate copies of relevant records for the official Committee files and to return or otherwise forward to the appropriate parties, as determined by the Chairman, all original documents submitted to the Committee in response to subpoenas issued in furtherance of the Committee's investigation.

NINETEENTH JUDICIAL DISTRICT,
EAST BATON ROUGE PARKS, OFFICE OF THE DISTRICT ATTORNEY,
Baton Rouge, LA, September 2, 1997.

Re: Voter registrations and elections.

Hon. MURPHY J. "MIKE" FOSTER,
Governor, State of Louisiana,
Baton Rouge, LA.

DEAR GOVERNOR FOSTER: We are currently conducting an investigation into election and voter registration irregularities. During the investigation, we have come across many concerns, including a number which I feel should be brought to your attention. That is because it appears that many of the Louisiana laws which were designed to assure the integrity of voter registration records and voting procedures may not be achieving the goals intended by the Legislature when enacted. The immediacy of the situation is that if the current procedures are not addressed, then the simple passage of time will result in the inability to insure that our laws provide either registration or election result integrity.

Though there are too many to be detailed in a letter, I will attempt to highlight some of the problems which we have found.

I would like to mention at the outset that the purpose of this letter is to point a finger at problems, not at people, so that they may be identified, discussed, understood, and solved. Blame assessment, if it occurs, will come at its time and in its forum.

Our investigation began with a focus on the Election Code, LRS 18:1 et seq, which was enacted to "... regulate the conduct of elections ...". It governs all aspects of elections, including officials, voters, registration, voting procedures, results, reporting, and even campaign finance.

Recent discoveries have prompted me to write this letter. The first is the finding of duplicate, inaccurate and/or incomplete information in the voter registration computer database. As of approximately one month ago, that database admittedly contained

thousands of instance of duplication of social security numbers as well as over 200,000 registered voters who were shown as having no social security number. From our continuing review, this number is much higher today than it was then.

There are also a number of persons who are shown on the State Voter Registration Computer System to be registered in the same or in different parishes with the same social security number. Investigation has shown that in some cases, the registration seems to be of the same person who has moved, and in some cases, the registration seems to be of a completely different person. Regardless of which of these scenarios is true for any particular record, to maintain the status quo is to invite fraud.

These problems fly in the face of the enactments of the Legislature contained in Louisiana Revised Statute 18:104 and 101 which requires that citizens who register to vote provide certain unique information to the Registrar of Voters in order to be properly identified and registered, and that there be no citizen registered in more than one place. Among the statutory requirements is the applicant's social security number. Despite this statutory mandate, the Commissioner of Elections office recently sent a directive to all registrars instructing that the obtaining of a social security number would no longer be required from a voter applicant. The directive was presumably based on a judicial decision rendered in a lawsuit filed by an individual against a Registrar and the Commissioner of Elections. The State of Louisiana was not made a party to the suit. Pursuant to the requirements of LRS 18:64, the Registrar of Voters was represented by an Assistant Attorney General. However, the State as an entity was neither made a party nor represented. Based upon that ruling the Commissioner's office is advising registrars around the state that they are no longer required to follow the mandate of LRS 18:104.

Permitting a discussing of the legal issues involved, if the necessary identifying information is not required when a voter is registered, then it is a matter of which you should be aware.

The second recent discovery occurred in attempting to match voter signatures from "Motor Voter" applications to signatures on the precinct registers which are signed on election day. Though no handwriting analysis has been done, there are a number of obvious discrepancies apparent in many of the records. This, of course, has been one of the concerns raised by the National Voter Registration Act (NVRA), and appears to have caused a problem in our election records.

Further complicating all of these matters is the lack of administrative rules, which has resulted in inconsistencies among the various offices of the local registrars, not the uniformity envisioned in the law.

These various practices, among others, create the opportunity for fraud in registration and voting and make it, for all practical purposes, impossible to discover, after the fact, if it occurred.

There are many other problems we have found which cause a great deal of concern, but they will not be detailed here. The purpose of this letter, instead, is to inform you of the existence of some of these problems in our system of registration and elections so that you can take whatever action you think is necessary to correct the problems. I stand ready to assist you in identifying the depth of, and solutions to, these problems.

If there are any questions, please feel free to contact me.

Yours truly,

DOUG MOREAU,
District Attorney.

STATE OF LOUISIANA,
OFFICE OF THE GOVERNOR,
Baton Rouge, September 3, 1997.

Hon. DOUG MOREAU,
District Attorney, 19th Judicial District,
Baton Rouge, LA.

DEAR MR. MOREAU: Thank you for your letter of September 2, 1997, about your concern for the integrity of the election process in Louisiana. Your remarks have caused me grave concern as to whether our election laws require extensive legislative review in order to ensure that election results in Louisiana are reliable, and so that the public may have confidence in our election process. The first duty of government is to protect the democratic election process against all risks of fraudulent practices, so that those who are chosen in the election process are indeed the true choices.

I am so very concerned about the questions which you have raised that I will forward a copy of your correspondence to Senator Randy Ewing, President of the Senate, and Representative Hunt Downer, Speaker of the House of Representatives, recommending that these questions, as to election process integrity, be reviewed by a joint committee of the legislature, with assistance of appropriate legal counsel and the power of subpoena. With such legislative oversight we will be able to ensure that the election results based on the election laws of Louisiana are above any suspicion as to their reliability.

I thank you most sincerely for calling these matters to my attention.

Sincerely,

M.J. "MIKE" FOSTER, Jr.

U.S. SENATE, COMMITTEE ON
RULES AND ADMINISTRATION,
Washington, DC, September 26, 1997.

Hon. J.J. "MIKE" FOSTER, Jr.,
Governor of Louisiana,
Baton Rouge, LA.

DEAR GOVERNOR FOSTER: This letter follows up our telephone conversation earlier today and the important personal meeting we had several weeks ago at the Southern Governors Conference. The Committee on Rules, which I chair, will meet next Wednesday to receive my report on the status of the Committee's preliminary investigation on behalf of the Senate, into allegations that fraud and irregularities affected the outcome of the November 5, 1996 election for U.S. Senate in your state.

My report will contain references to Louisiana's election laws, the presence or absence of adequate regulations, and the need for a proven level of enforcement of such laws and regulations. You have expressed to me your concerns related to Louisiana's election process and have told me that you plan to make your own evaluation of this system, in conjunction with members of your state legislature.

I particularly commend Doug Moreau, District Attorney for East Baton Rouge whom I have consulted on several occasions. He is continuing to perform investigation into areas which overlap with our own efforts.

One area in particular that Mr. Moreau is pursuing is a complete review of the state's voter registration computer database, which we have both discovered contains a significant number of voters with the same social security number or with no social security number at all. We were unable to obtain the complete database because the Commissioner of Elections would not voluntarily comply with a subpoena, as confirmed by the fact that Mr. Moreau is now in court seeking to enforce his subpoena.

At such time as the ongoing Senate preliminary investigation ceases—and I will know more details after my full Senate Committee meets next Wednesday—I want to

offer, in compliance with Senate Rules, the opportunity for Rules Committee staff to brief the appropriate forum you establish for your legislative review.

My experience in this case leads me to recommend that—in light of the number of instances where the electoral safeguards, including record keeping, were not followed in the November 1996 elections, from the precinct level right up to the office of the Commissioner of Elections—your review should include an examination of what legislative or regulatory changes and enhanced adherence to present laws are needed to ensure that an official body, be it a body of the U.S. Congress, a court of law, or an appropriate governmental authority in your state, can more readily reach a credible and well documented decision about a statewide election contest.

Our foremost duty is to ensure our elections are conducted fairly and in accordance with law. We remain willing to provide you our observations and suggestions, within Senate rules, to assist you in your efforts to protect our electoral process.

Sincerely,

JOHN WARNER,
Chairman.

STATE OF LOUISIANA,
EXECUTIVE DEPARTMENT,
Baton Rouge, LA, September 29, 1997.

Hon. JOHN WARNER,
Chairman, Senate Committee on Rules and Administration, Washington, DC.

DEAR SENATOR WARNER: I am in receipt of your letter of September 26 in which you informed me of your Rules Committee report to be delivered Wednesday and detailed some of your observations and wisdom gained through years of oversight.

So much of your thought process and concerns directly parallel my own. The allegations of fraud and irregularities which may have affected the outcome of the November 1996 U.S. Senate election are serious and disturbing. But, of even greater long term consequence are the suspicions that you and I apparently both share that there are chronic, systemic, and structural problems in the Louisiana election process.

These issues are not about party affiliation. They are not about individual candidates or specific elections, even though this election in question clearly has illustrated some of the problems. The issue is the integrity and sanctity of our election process and its results. I share wholeheartedly with you your basic premise that our foremost duty is to ensure that our elections are conducted fairly and in accordance with the law.

I particularly share your frustration that our system of record keeping precludes adequate standards of accountability and that our lax enforcement substantially lowers public confidence in our elections. Witness to this is the fact that we recently learned that we have thousands of felons still on the voter rolls.

Regardless of the future course of your investigation with the Rules Committee, Louisiana has a duty and an obligation to fashion a remedy for the many ills which have so amply been illustrated throughout these past months.

Therefore, I will call for a bipartisan state legislative initiative with hearings focusing on every element of our registration and election process, involving Democrats and Republicans, and all appropriate state and local registrars, elections officials, and enforcement authorities.

Nothing in a democracy is more sacred than the integrity of elections. On behalf of the state of Louisiana we offer our deepest appreciation for your efforts in identifying the problem areas in our elections system,

and we gratefully accept your offer to have Rules Committee staff provide important information and examples of problems to our state hearings.

Again we sincerely appreciate the earnestness of your efforts and hope that your diligence and the ensuing hearings in Louisiana will profoundly impact our elections system for the better.

With kinds regards, I am,
Sincerely,

M.J. "MIKE" FOSTER, Jr.,
Governor.

Mr. SANTORUM addressed the Chair.
The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise today to congratulate the chairman of the Rules Committee for one of the most difficult tasks that any Member will be called upon to take in the U.S. Senate, and that is to look into the election of another Member of the Senate. It immediately has partisan overtones and can take a very ugly turn.

I can say that having sat through many of the hearings, both open and closed hearings, having sat with the chairman and seeing the efforts of this case and seeing the level of detail to which he took personally getting involved in this investigation and trying to ferret out the validity of the charges that were alleged, I am very proud of Senator WARNER's work on this investigation. He did it with the skill of the trained lawyer that he is. He did it in a way, really as the Senate's counsel, if you will, and also did it with, I believe, an extraordinary air of bipartisanship when, in fact, the partisan wranglings had boiled over far beyond what he actually deserved.

He did an excellent job. He did a thorough job. He used the resources that he had to the greatest extent that he possibly could. He took lots of arrows, in many cases in the back. But he stood tall and kept his eye on the ball, and that was to find out what happened in Louisiana, whether these charges that were put forward were, in fact, legitimate. He is determined, as well as the other members of the committee, that at this point there is not sufficient evidence to suggest that there was a systematic case of fraud in Louisiana, and so the investigation must come to a conclusion.

I support the chairman in that decision. I supported him, as did every other member of the Rules Committee, in the decision that he came to after this thorough and thoughtful investigation of the information that was presented to him.

I just wanted to take the floor today to commend him for a job well done. No doubt he will be criticized by many for ending this investigation, but I want to stand with him in saying that I think he reached the conclusion that was the only conclusion that could be reached at this point.

Having said that, obviously, just like with any of us, if information comes out subsequent that is a smoking gun or that is really problematic, then that

evidence can be brought before the Rules Committee and we can take a look at it. To this point, that has not occurred, and I think the chairman has acted judiciously with respect to the evidence before him.

I wanted to stand and offer my gratitude for his excellent work and state my support for his effort. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me thank the chairman of the Rules Committee, the distinguished Senator from Virginia, for his honest, straightforward, and direct investigation and statements in closed session and in public today. I think it is evident from his effort, with the vote of 16 to nothing, bipartisan, that we now cease and desist as it relates to the investigation of the Louisiana election, and the distinguished Senator MARY LANDRIEU be seated as a true Senator without any cloud over her head whatsoever, so she can get about the business of full-time representation of Louisiana.

I thank the chairman. I thank the members of the committee. I think it is now time that we put this behind us and proceed with the business of the Senate.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Florida.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

Mr. MACK. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1156, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1156) making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District, for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Coats modified amendment No. 1249, to provide scholarship assistance for District of Columbia elementary and secondary school students.

Graham-Mack-Kennedy amendment No. 1252, to provide relief to certain aliens who would otherwise be subject to removal from the United States.

Mack-Graham-Kennedy modified amendment No. 1253 (to amendment No. 1252) in the nature of a substitute.

AMENDMENT NO. 1253 TO AMENDMENT NO. 1252

The PRESIDING OFFICER. The amendment of the Senator from Florida is the pending business.

Mr. MACK. Mr. President, I ask unanimous consent that Senator DEWINE be added as a cosponsor to my amendment.

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