

PATSY T. MINK
SECOND DISTRICT, HAWAII

WASHINGTON OFFICE:
2135 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-1102
(202) 225-4906
FAX: (202) 225-4987
<http://www.house.gov/writerep/>

DISTRICT OFFICE:
5104 PRINCE KUHIO FEDERAL BUILDING
P.O. Box 50124
HONOLULU, HI 96850-4977
(808) 541-1986
FAX: (808) 538-0233

BIG ISLAND: (808) 935-3756
MAUI: (808) 242-1818
KAUAI: (808) 245-1951

Congress of the United States
House of Representatives
Washington, DC 20515-1102

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**1960 HAWAII PRESIDENTIAL ELECTION PROVIDES
ROADMAP FOR RESOLVING FLORIDA ELECTION DISPUTE**

December 11, 2000

Dear Colleague:

The Florida presidential dispute contains all the elements present in the 1960 Hawaii presidential election:

- an apparent winner on election night
- a contest by the apparent loser
- a court-ordered recount
- the certification of one set of electors by the governor while the recount was under way
- a court decision declaring the apparent loser the winner after a recount completed after the date the State's electors met
- competing slates of electors presented to the Congress
- a joint session of Congress choosing which slate of electors to accept

The resolution of that dispute provides valuable guidance for the Congress and the nation as we try to determine the next President of the United States.

The results of the 1960 Presidential election in Hawaii between Richard Nixon and John Kennedy originally showed Nixon a winner by 141 votes. Based on those results, the Republican slate was issued a certificate of election by the Acting Governor on November 28, 1960. The results were challenged by 30 Democratic voters who filed suit to require a recount in 34 of the State's 240 precincts. The suit was opposed by the State's Republican Administration, which contended that there was not sufficient time to complete the recount before the December 13, 1960 deadline for certifying electors, six days before the December 19, 1960 date set for the electors to meet.

The Republicans also argued that if some of the votes were to be recounted, all the votes should be recounted.

The recount began on December 13, 1960. By the time the electors met on December 19, 1960, only one-third of the votes had been recounted, but Kennedy had an 83 vote lead. Based on the earlier certified results, the Republican electors met and cast their three votes for Nixon. The Democratic electors also met and cast their votes for Kennedy even though they did not have a certificate of election from the State.

The recount was not concluded until December 28, 1960. Kennedy was declared the winner by the court by 115 votes. The court entered its judgment on December 30, 1960.

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When Congress met to count the electoral votes on January 6, 1961, it had before it three certificates from Hawaii. The first was the certificate of the Republican electors dated December 19 accompanied by the November 28 certificate of the Acting Governor of Hawaii that the electors had been appointed as a result of the November election.

The second was the certificate of the Democratic electors dated December 19, 1960 casting their votes for John Kennedy.

The third certificate was from the Republican Governor of Hawaii dated January 4, 1961 certifying that the Democratic electors had been elected "agreeably to the provision of the laws of the said State, and in conformity with the Constitution and the laws of the United States" as "ascertained by judgment of the Circuit Court." The Governor annexed a copy of the court's decision to the certificate of election.

Vice President Nixon, sitting as the presiding officer of the joint convention of the two Houses, suggested that the electors named in the certificate of the Governor dated January 4, 1961 be considered the lawful electors from Hawaii. There was no objection to the Vice President's suggestion, and the three electoral votes from Hawaii were cast for John Kennedy.

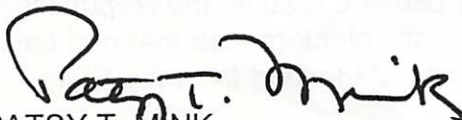
This result was supported by both Senators from Hawaii, Republican Hiram Fong and Democrat Oren Long and Democratic Representative Daniel K. Inouye.

The precedent of 40 years ago suggests the means for resolving the electoral dispute in Florida:

- count the votes under the supervision of the court pursuant to Florida law
- both slates of electors meet on December 18 and send their certificates to Congress
- the Governor of Florida send a subsequent certificate of election based on the decision of the count supervised by the court accompanied by the decision of the court
- Congress accepts the slate of electors named by the Governor in his final certification.

Under this procedure Florida need not rush to complete its recount in an attempt to meet unrealistic deadlines set the court or the legislature. The key date is not December 12 or December 18. It is January 6, the date on which the electoral votes are counted. As the 1960 experience of Hawaii shows, the Florida recount does not have to be completed until just before the electoral votes are counted.

Very truly yours,



PATSY T. MNK
Member of Congress