

No. S257302

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

JESSICA MILLAN PATTERSON, and
CALIFORNIA REPUBLICAN PARTY,

Petitioners,

v.

ALEX PADILLA,
California Secretary of State, in his official capacity,

Respondent.

IN RESPONSE TO ORDER TO SHOW CAUSE RE:
EMERGENCY PETITION FOR WRIT OF MANDATE

**APPLICATION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF OF DEAN ERWIN CHEMERINSKY
IN SUPPORT OF RESPONDENT;
PROPOSED AMICUS CURIAE BRIEF**

DAVID BOIES
(*pro hac vice* forthcoming)
BOIES SCHILLER FLEXNER LLP
333 Main Street
Armonk, NY 10504
Telephone: (914) 749-8200
Facsimile: (914) 749-8300
dboies@bsfllp.com

*MAXWELL V. PRITT (SBN 253155)
ALEXANDER J. HOLTZMAN (SBN 311813)
BOIES SCHILLER FLEXNER LLP
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Telephone: (415) 293-6800
Facsimile: (415) 293-6899
mpritt@bsfllp.com
aholtzman@bsfllp.com

Counsel for Amicus Curiae
ERWIN CHEMERINSKY

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

The undersigned certifies that there are no interested entities or persons required to be listed under rule 8.208 of the California Rules of Court.

Dated: September 13, 2019

Respectfully submitted,

By: /s/ Maxwell V. Pritt
Maxwell V. Pritt (SBN 253155)
BOIES SCHILLER FLEXNER LLP

Counsel for Amicus Curiae
Dean Erwin Chemerinsky

APPLICATION FOR LEAVE TO FILE AMICUS BRIEF
TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF
JUSTICE OF THE SUPREME COURT OF CALIFORNIA, AND TO THE
HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF
CALIFORNIA, and pursuant to rule 8.520(f) of the California Rules of
Court, leave is hereby requested to file the attached brief as *amicus curiae*
on behalf of Erwin Chemerinsky, Dean of University of California,
Berkeley, School of Law, in support of Respondent.

INTEREST OF AMICUS CURIAE¹

Amicus Erwin Chemerinsky (“Dean Chemerinsky”) seeks leave to appear *amicus curiae* as a legal scholar to assist this Court in determining whether SB 27 is, as Petitioners contend, irreconcilable with article II, section 5, subdivision (c) of the California Constitution. As a California-based law professor and constitutional law scholar, Dean Chemerinsky has developed expertise regarding constitutional and election law under both the federal and California Constitutions. The proposed *amicus* brief elaborates on three historical and interpretative points that are key to demonstrating that the California Legislature acted within its broad authority in enacting SB 27.

Dean Chemerinsky is well positioned to assist the Court in these matters. He is Dean and Jesse H. Choper Distinguished Professor of Law at University of California, Berkeley, School of Law. Before being named Dean of Berkeley Law, he was the founding Dean and Distinguished Professor of Law, and the Raymond Pryke Professor of First Amendment Law, at the University of California, Irvine School of Law. Dean

¹ *Amicus curiae* affirms that no counsel for any party authored this brief in whole or in part, and that no party, party’s counsel, or person or entity other than *amicus curie* or his counsel contributed money intended to fund preparing or submitting this brief.

Chemerinsky previously taught at Duke Law School for four years and at the University of Southern California for 21 years. Dean Chemerinsky is a nationally prominent expert on constitutional law and civil liberties and is the author of eight books—including his treatise *Constitutional Law: Principles and Policies*, the casebook *Constitutional Law*, and more than 200 articles in top law reviews. He frequently argues cases before the nation's highest courts and also serves as a commentator on legal issues for national and local media. In 2016, Dean Chemerinsky was named a fellow of the American Academy of Arts and Sciences. And in 2017, *National Jurist* magazine again named Dean Chemerinsky as the most influential person in legal education in the United States.

CONCLUSION

For the foregoing reasons, Dean Chemerinsky respectfully asks that the Court grant his application for leave to appear as *amicus curiae* and allow the attached brief to be filed.

Dated: September 13, 2019 Respectfully submitted,

By: /s/ Maxwell V. Pritt
*Maxwell V. Pritt (SBN 253155)
Alexander J. Holtzman (SBN 311813)
BOIES SCHILLER FLEXNER LLP
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
mpritt@bsfllp.com
aholtzman@bsfllp.com

DAVID BOIES
(*pro hac vice* forthcoming)
BOIES SCHILLER FLEXNER LLP
333 Main Street
Armonk, NY 10504
dboies@bsfllp.com

Counsel for Amicus Curiae
Dean Erwin Chemerinsky

No. S257302

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

JESSICA MILLAN PATTERSON, and
CALIFORNIA REPUBLICAN PARTY,

Petitioners,

v.

ALEX PADILLA,
California Secretary of State, in his official capacity,

Respondent.

IN RESPONSE TO ORDER TO SHOW CAUSE RE:
EMERGENCY PETITION FOR WRIT OF MANDATE

***AMICUS CURIAE* BRIEF OF DEAN ERWIN CHEMERINSKY
IN SUPPORT OF RESPONDENT**

DAVID BOIES
(*pro hac vice* forthcoming)
BOIES SCHILLER FLEXNER LLP
333 Main Street
Armonk, NY 10504
Telephone: (914) 749-8200
Facsimile: (914) 749-8300
dboies@bsfllp.com

*MAXWELL V. PRITT (SBN 253155)
ALEXANDER J. HOLTZMAN (SBN 311813)
BOIES SCHILLER FLEXNER LLP
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Telephone: (415) 293-6800
Facsimile: (415) 293-6899
mpritt@bsfllp.com
aholtzman@bsfllp.com

Counsel for Amicus Curiae
ERWIN CHEMERINSKY

TABLE OF CONTENTS

I.	SUMMARY OF ARGUMENT	9
II.	BACKGROUND.....	10
A.	1970s Election Reforms	10
B.	Passage And Purposes Of SB 27	12
III.	ARGUMENT	13
A.	SB 27 Does Not Conflict With Section 5(c) And Is Consistent With The Legislature’s Plenary Control Over Elections, Absent Specific Limitations.	13
1.	The Plain Text of Article II, Section 5(c) Is Consistent With The Legislature’s Authority To Enact SB 27.....	13
2.	The Legislature Has All Powers Not Prohibited To It By The California Constitution, Including Plenary Authority Over Elections.	14
3.	The Legislature Has Authority Over Elections And Over The Secretary Of State.	17
4.	The Legislature Has Authority To And Has Properly Legislated Concerning The Secretary of State’s Exercise Of Discretion.	18
B.	A Comparison of Section 5(c) to Similar Provisions in Other States Highlights the Appropriateness of Legislative Implementation in California.	20
C.	SB 27 Promotes the Same Objectives of Openness and Transparency That Motivated Proposition 4 and Other 1970s Election Reforms.	23
IV.	CONCLUSION	27
	DECLARATION OF MAXWELL V. PRITT	28
	CERTIFICATE OF COMPLIANCE	30
	CERTIFICATE OF SERVICE.....	31

TABLE OF AUTHORITIES

CASES

<i>Anderson v. Phillips</i> (1975) 13 Cal.3d 733	19
<i>Belluso v. Poythress</i> (N.D. Ga. 1980) 485 F.Supp. 904.....	22
<i>Brown v. Chiang</i> (2011) 198 Cal.App.4th 1203	17
<i>Burton v. Shelley</i> (Cal., Aug. 7, 2003, No. S117834) 2003 WL 21962000.....	18, 19
<i>California Cannabis Coalition v. City of Upland</i> (2017) 3 Cal.5th 924	24
<i>California Housing Finance Agency v. Patitucci</i> (1978) 22 Cal.3d 171	16
<i>California Mfrs. Assn. v. Public Utilities Com.</i> (1979) 24 Cal.3d 836	21
<i>Common Cause v. Board of Supervisors</i> (1989) 49 Cal.3d 432	19
<i>County of Riverside v. Superior Court</i> (2003) 30 Cal.4th 278	15
<i>Cty. of San Diego v. Bowen</i> (2008) 166 Cal.App.4th 501	18
<i>Davis v. City of Berkeley</i> (1990) 51 Cal.3d 227	16
<i>Doe v. Saenz</i> (2006) 140 Cal.App.4th 960	21
<i>Fitts v. Superior Court</i> (1936) 6 Cal.2d 230	16
<i>In re Ricky H.</i> (1970) 2 Cal.3d 513	19

<i>Kay v. Austin</i> (6th Cir. 1980) 621 F.2d 809	22
<i>Labor and Farm Party v. Elections Bd.</i> (1984) 117 Wis.2d 351	21, 22
<i>Libertarian Party v. Eu</i> (1980) 28 Cal.3d 535	14
<i>Lindell Co. v. Board of Permit Appeals</i> (1943) 23 Cal.2d 303	19
<i>Love v. Baehr</i> (1874) 47 Cal. 364	17
<i>Marine Forests Soc’y v. California Coastal Com.</i> (2005) 36 Cal.4th 1	16
<i>Mathews v. Harris</i> (2017) 7 Cal.App.5th 334	19
<i>McCarthy v. Elections Bd.</i> (1992) 166 Wis.2d 481	22
<i>Methodist Hosp. of Sacramento v. Saylor</i> (1971) 5 Cal.3d 685	15, 16
<i>People v. Birkett</i> (1999) 21 Cal.4th 226	16
<i>People v. Giordano</i> (2007) 42 Cal.4th 644	16
<i>People v. Tilton</i> (1869) 37 Cal. 614	16
<i>Quinn v. Stone</i> (Fla. 1972) 259 So.2d 492	22
<i>Tirapelle v. Davis</i> (1993) 20 Cal.App.4th 1317	17
<i>Yorty v. Stone</i> (Fla. 1972) 259 So.2d 146	23

STATUTES

United States Code

2 U.S.C. § 431 <i>et seq.</i>	10
26 U.S.C. § 9001 <i>et seq.</i>	10

California Elections Code

Cal. Elec. Code, § 6000	18
Cal. Elec. Code, § 6061	15
Cal. Elec. Code, § 6343	15
Cal. Elec. Code, § 6523	15
Cal. Elec. Code, § 6723	15
Cal. Elec. Code, § 6853.5	15
Cal. Elec. Code, § 6881	12, 13, 25
Cal. Elec. Code, § 6883	12
Cal. Elec. Code, § 8900	13
Cal. Elec. Code, § 8902	12

California Government Code

Cal. Gov. Code, § 81000	9, 10, 25
Cal. Gov. Code, § 81001	11

Federal Statutes

Federal Election Campaign Act of 1971	
Pub.L. No. 92-225 (Feb. 78, 1972) 86 Stat. 3	9, 10
Federal Election Campaign Act of 1974	
Pub.L. No. 93-443 (Oct. 15, 1974) 88 Stat. 1263.....	10

Other Codes

Conn. Gen. Stat. Ann. § 9-465	22
-------------------------------------	----

Md. Code Ann., Elec. Law § 8-502.....	22
Mich. Comp. Laws Ann. § 168.614	22
Neb. Rev. Stat. Ann. § 32-614	22
Tenn. Code Ann. § 2-5-205(a)(1).....	21, 22
Wis. Stat. Ann. § 8.12.....	21, 22
Wis. Stat. Ann. § 8.12(b).....	21

CONSTITUTIONAL PROVISIONS

California Constitution

Cal. Const. art. II, § 5	passim
Cal. Const. art. V, § 1	17
Sen. Const. Amend. 3 (Reg. Ses. 1971)	12

California Senate Bills

Cal. Senate Bill 27	passim
---------------------------	--------

OTHER AUTHORITIES

Bach, <i>Will We Ever See Trump's Tax Returns—And Does It Matter?</i> , Fortune (Apr. 10, 2019), https://fortune.com/2019/04/10/trump-tax-returns/ [as of Sept. 12, 2019]	20
California Proposition 4	passim
Diamond et al., <i>California's Political Reform Act: Greater Access to the Initiative Process</i> (1975) 7 Sw.U. L.Rev. 453.....	10, 11
Eagly & Chaiken, <i>The Psychology of Attitudes</i> (1993).....	25
Editorial, <i>Cast a 'No' Vote on Proposition 4</i> , San Mateo Times and Daily News Leader (June 2, 1972)	12, 26
Editorial, <i>Open Primary Wins Strong Voter Favor</i> , Redlands Daily Facts (June 8, 1972)	11

Editorial, <i>Taking Primaries Out of Smoke-Filled Room</i> Pomona Progress Bulletin (May 21, 1972)	11
Ford, <i>Chapter 16: Combating Dark Money in California Politics</i> (2014) 46 McGeorge L.Rev. 335.....	10, 11
Gillooly, <i>Larouche v. Kezer: A cursory Look at Connecticut's Hopelessly Vague Media Recognition Statute</i> (1995) 15 QLR 269, 271.....	22
Greenberg & Tannenbaum, <i>The Effects of Bylines on Attitude Change</i> (1961) 38 Journalism & Mass Comm. Q. 535.....	25
Haas, <i>Effects of Source Characteristics on Cognitive Responses and Persuasion,</i> Cognitive Responses in Persuasion (Petty, Ostrom & Brock, eds., 1981), p. 32	25
Hemel, <i>Can New York Publish President Trump's State Tax Returns?</i> (2017) 127 Yale L.J. F. 62 http://www.yalelawjournal.org/forum/can-new-york-publish- president-trumps-state-tax-returns [as of Sept. 12, 2019]	24
Kossen, <i>The Last Winner Take All?</i> San Francisco Examiner (May 28, 1972)	11
Levinson & Young, <i>Who's Afraid of the Twelfth Amendment?</i> (2001) 29 Fla. St.U. L.Rev. 925	26
NPR, <i>A History of Presidential Tax Returns,</i> NPR (Feb. 15, 2019) https://www.npr.org/2019/02/15/ 695054845/a-history-of-presidential-tax-returns [as of Sept. 12, 2019]	20
Roberts, <i>Clinton Clinches Demo Nomination,</i> S.F. Chronicle (June 3, 1992)	26
Rosenthal, <i>Congress Should Request the President's Tax Returns,</i> Tax Policy Center (Feb. 8, 2019) https://www.taxpolicycenter.org/taxvox/congress-should-request- presidents-tax-returns [as of Sept. 12, 2019]	24

<i>SurveyUSA Election Poll #24948</i> , SurveyUSA (Aug. 6, 2019) http://www.surveyusa.com/client/PollReport.aspx?g=949b0f46-a4a4-4480-b675-711e9d6fd657 [as of Sept. 12, 2019]	26
Wonderlich, <i>Congress Should Mandate Tax Return Disclosure for Presidential Candidates</i> , Sunlight Foundation (May 12, 2016) https://sunlightfoundation.com/2016/05/12/congress-should-mandate-tax-return-disclosure-for-presidential-candidates/ [as of Sept. 12, 2019]	25
Zuckoff, <i>Why We Ask to See Candidates' Tax Returns</i> New York Times (Aug. 5, 2016) https://www.nytimes.com/2016/08/06/opinion/why-we-ask-to-see-candidates-tax-returns.html [as of Sept. 12, 2019]	24

I. SUMMARY OF ARGUMENT

The Secretary of State's Preliminary Opposition and Response to the Order to Show Cause comprehensively identify relevant legislative history, historical practice, and constitutional principles that make clear the constitutionality of SB 27 under the California Constitution.

This brief elaborates on three points supporting that conclusion. *First*, the text of California Constitution article II, section 5, subdivision (c) ("section 5(c)") does not limit, and in fact supports, the Legislature's ability to enact SB 27. Petitioners fail to show there is even a conflict to be resolved between the terms of the two provisions. Moreover, SB 27 is consistent with the Legislature's plenary authority to enact legislation, including regarding elections, in the absence of specific constitutional limitations. All powers not limited by the California Constitution are permitted to the Legislature—a structure that differs from the federal separation of powers arrangement—and this Court provides significant deference to the Legislature's enactments implementing the California Constitution. The Legislature was empowered to enact SB 27 whether through its plenary powers over elections generally or implementation of the term "recognized" in section 5(c) specifically. *Second*, a comparison of article II, section 5(c) to similar provisions in other states reinforces that California has made a considered choice *not* to endow the Secretary of State with sole authority to place candidates on the primary ballot as Petitioners contend. *Third*, SB 27 is consistent with and indeed promotes the same goals of openness in presidential primaries as Proposition 4 (which enacted the constitutional language at issue), particularly when viewed in the context of the wave of reforms contemporaneous to Proposition 4, including the Federal Election Campaign Act and the California Political Reform Act.

II. BACKGROUND

A. 1970s Election Reforms

California's election reforms in the 1970s must be viewed in the context of the nationwide focus on election reform at the time, intended to promote fairer elections through informed voter choice and control. In 1972, Congress passed the Federal Election Campaign Act ("FECA"), enacting provisions for disclosure of contributions directed at the issue of hidden money in politics. (Federal Election Campaign Act of 1971, Pub.L. No. 92-225 (Feb. 7, 1972) 86 Stat. 3.) After the Watergate scandal, Congress in 1974 amended FECA to place limits on campaign contributions and expenditures. (Federal Election Campaign Act Amendments of 1974, Pub.L. No. 93-443 (Oct. 15, 1974) 88 Stat. 1263; see also 2 U.S.C. §§ 431–455.) The 1974 amendment also established funding for presidential elections, presidential primaries, and national party nominating conventions. (26 U.S.C. §§ 9001–9042.)

Likewise, California undertook significant election reform in the 1970s. The Legislature placed on the ballot, and the voters approved, the Political Reform Act of 1974, "the cornerstone of campaign finance and reporting laws in California." (Ford, *Chapter 16: Combating Dark Money in California Politics* (2014) 46 McGeorge L.Rev. 335, 337; see Diamond et al., *California's Political Reform Act: Greater Access to the Initiative Process* (1975) 7 Sw.U. L.Rev. 453 (hereafter *California's Political Reform Act*).) The Political Reform Act was the "most comprehensive political reform package since the adoption of the initiative, referendum and recall into the California constitution in 1911." (*Id.* at p. 454.) "The drafters of [the Political Reform Act] designed a schematic series of laws to provide California residents and voters a greater degree of governmental supervision over the political process. These laws were deemed necessary because the legislative and executive departments had been generally

unresponsive to political reform.” (*Id.* at pp. 463–464.) One of the “fundamental tenets of the act,” (Ford, *supra*, 46 McGeorge L.Rev. at p. 337) was that “[p]ublic officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.” (Gov. Code, § 81001, subd. (b).)

Also in this period, political parties’ control over presidential primaries was increasingly viewed as hampering voter choice in California elections. Of particular concern was that political parties were limiting the candidates who appeared in presidential primaries to so-called “favorite sons.” (See Editorial, *Open Primary Wins Strong Voter Favor*, Redlands Daily Facts (June 8, 1972) p. 18, attached as Exhibit A [“That Proposition 4 was strongly favored by the voters is no occasion for surprise. The public has long been fed up with the artificial primaries in which a Governor has kept the main candidates from other states off the ballot by declaring himself a Favorite Son. The Legislature, supported by the voters, has clipped the wings of our Governors.”]; Kossen, *The Last Winner Take All?*, San Francisco Examiner (May 28, 1972) p. 8, attached as Exhibit B [“Four years ago [Reagan] was not the first Governor to limit the voters’ choice in the primary by running as a ‘favorite son.’ Yet Reagan will be the last for the foreseeable future, if Proposition 4 is adopted in next week’s election. This would provide for an open primary, similar to Oregon’s where the ballot contains names of all recognized candidates.”]; Editorial, *Taking Primaries Out of Smoke-Filled Room*, Pomona Progress Bulletin (May 21, 1972) p. B-2, attached as Exhibit C [“An open primary will take the selection of a candidate out of the smoke-filled rooms and into the voters’ hands where it belongs.”].) In addition to the “favorite son” problem, candidates seeking to prevail at brokered nominating conventions would sometimes *not* put themselves on the ballot in California—a then-late

primary state—if they believed they would lose the California primary and appear weak going into the party nominating convention. (Editorial, *Cast a ‘No’ Vote on Proposition 4*, San Mateo Times and Daily News Leader (June 2, 1972) p. 28, attached as Exhibit D [“The California primary is a late one, coming just a few weeks before national party conventions. If a candidate finds himself forced to run here he risks a defeat that would damage his chances at the convention even if he had the support of his party in other states.”].)

Against this backdrop and context, the Legislature placed SCA 3 (later designated Proposition 4) on the ballot, and it was approved by California voters in June 1972. As relevant here, Proposition 4 stated that the “Legislature shall provide for an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California” (Sen. Const. Amend. 3 (Reg. Ses. 1971), OSC Response Ex. K.)¹ The Legislature did not at the time define the term “recognized” or otherwise explain how the Secretary of State should implement this provision; nor did the legislative analysis or ballot materials do so.

B. Passage And Purposes Of SB 27

On July 30, 2019, the Legislature passed and the Governor signed into law SB 27, recognizing an interest in California voters making “informed, educated choices in the voting booth.” (Elec. Code, § 6881.) SB 27 requires presidential and gubernatorial candidates to disclose five years of redacted tax returns to appear on a primary ballot. (Elec. Code, §§ 6883, 8902.) The Legislature found that “a Presidential [and

¹ Previous similar proposed legislation containing provisions vesting “sole discretion” in the Secretary of State did not pass the Legislature or were vetoed by the Governor. (See Response to OSC at pp. 14–15 & Exs. A–C.)

gubernatorial] candidate’s income tax returns provide voters with essential information regarding the candidate’s potential conflicts of interest, business dealings, financial status, and charitable donations. The information in tax returns therefore helps voters to make a more informed decision.” (Elec. Code, § 6881; see Elec. Code, § 8900.) The Legislature explained that voters “can better estimate the risks of any given Presidential [or gubernatorial] candidate engaging in corruption or the appearance of corruption if they have access to candidates’ tax returns.” (Elec. Code, § 6881; see Elec. Code, § 8900.)

III. ARGUMENT

A. SB 27 Does Not Conflict With Section 5(c) And Is Consistent With The Legislature’s Plenary Control Over Elections, Absent Specific Limitations.

1. The Plain Text of Article II, Section 5(c) Is Consistent With The Legislature’s Authority To Enact SB 27.

Despite three rounds of briefing, Petitioners still have not identified any inconsistency between the requirements of SB 27 and the text of California Constitution article II, section 5(c). Article II, section 5(c) is directed at “The Legislature” and provides:

The Legislature shall provide for partisan elections for presidential candidates, and political party and party central committees, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy.

This provision affirms the Legislature’s authority over presidential primary elections and refers to the Secretary’s recognition authority in the context of what “[t]he Legislature shall provide.” It does not define what it means to be a “recognized” candidate.

To prevail, Petitioners need section 5(c) to include additional content that it simply does not contain. Petitioners repeatedly assert that the constitutional provision is not susceptible to legislative interpretation because the Secretary of State has sole or nondelegable authority to “recognize” candidates. (See OSC Reply at pp. 16 [“exclusively delegated”], 17 [“exclusive delegation”]; Pet’n Reply at pp. 6 [“exclusively delegated authority”], 6 [“sole authority”], 10 [“sole and exclusive constitutional duty”], 11 [“constitutional delegation of authority and duty in the Secretary of State”].) But section 5(c) contains no such term.² Nor do almost all of the legislative history and ballot materials that even Petitioners identify. (See OSC Reply at pp. 17–18 [all except a comment in the ballot argument *against* Proposition 4].) Moreover, Petitioners provide no explanation of what the “recognition” power must entail as a substantive matter, other than simply asserting that section 5(c) imposes a mandatory duty.

2. The Legislature Has All Powers Not Prohibited To It By The California Constitution, Including Plenary Authority Over Elections.

The Legislature’s plenary authority, including over elections, reinforces the conclusion that SB 27 is compatible with article II, section 5(c). “Article II of the California Constitution vests the Legislature with plenary power over the conduct of elections in this state.” (*Libertarian Party v. Eu* (1980) 28 Cal.3d 535, 540 [reversing a writ of mandate granted by the trial court to force the Secretary of State to list candidates’ party affiliation as Libertarian even though the Libertarian Party had not qualified as a party for that election].) Petitioners do not dispute this plenary

² Perhaps most confusing is Petitioners’ imagined block quote provision in their Petition Reply Brief (at p. 8), which is a complete rewrite of section 5(c) rather than a “[c]lear directive” as Petitioners claim.

authority. Indeed, they appear to agree that, if there is a limitation on the Legislature's power to enact SB 27 with respect to the presidential primary election in the California Constitution, it must be found within section 5(c). (OSC Reply at p. 16, footnote omitted ["In fact, the only limitation on legislative power with respect to the open Presidential Primary election under the California Constitution is that the power to identify the candidates running for President and to place their names on the ballot is exclusively delegated to the Secretary of State."].)

SB 27's requirements are not meaningfully different than other exercises of the Legislature's authority that Petitioners admit are consistent with section 5(c). For instance, Petitioners recognize that the Legislature has permissibly "provided the 'manner' in which" petitions to appear on presidential primary ballots "may be circulated." (OSC Reply at p. 16, citing Elec. Code, §§ 6061, 6343, 6523, 6723, 6853.5.) Yet Petitioners do not explain how their cited statutes regarding the number of signatures required for petitions (Elec. Code, §§ 6061, 6343, 6523, 6853.5) or regarding the requirement for Peace and Freedom Party candidates to form a committee, certify delegates, and file a petition to appear on the ballot (Elec. Code, § 6723) differ in kind from the requirements of SB 27. All of these requirements represent the Legislature "provid[ing] for partisan elections for presidential candidates . . . including an open presidential primary" under section 5(c).

"In deciding whether the Legislature has exceeded its power, [this Court is] guided 'by well settled rules of constitutional construction.'" (*County of Riverside v. Superior Court* (2003) 30 Cal.4th 278, 284, quoting *Methodist Hosp. of Sacramento v. Saylor* (1971) 5 Cal.3d 685, 691.) "[P]erhaps most significantly, unlike the United States Congress, which possesses only those specific powers delegated to it by the federal Constitution, it is well established that the California Legislature possesses

plenary legislative authority except as specifically limited by the California Constitution.” (*Marine Forests Soc’y v. California Coastal Com.* (2005) 36 Cal.4th 1, 31; see also *Fitts v. Superior Court* (1936) 6 Cal.2d 230, 234 [holding that California courts “do not look to the [California] Constitution to determine whether the legislature is authorized to do an act, but only to see if it is prohibited. In other words, unless restrained by constitutional provision, the legislature is vested with the whole of the legislative power of the state”]; *California Housing Finance Agency v. Patitucci* (1978) 22 Cal.3d 171, 175 [same]; *People v. Tilton* (1869) 37 Cal. 614, 626 [“State Constitutions are not grants of power to the Legislature. Full power exists when there is no limitation.”].)

In light of this plenary authority, the “Legislature’s interpretation of uncertain constitutional terms, as reflected in subsequently enacted legislation, is entitled to great deference by the courts.” (*Davis v. City of Berkeley* (1990) 51 Cal.3d 227, 242; see *People v. Birkett* (1999) 21 Cal.4th 226, 244 [same].) The Legislature does not need to show that its interpretation of a constitutional provision is “‘more probably than not’ the meaning intended by those who framed or adopted the proposal.” (*Methodist Hosp. of Sacramento v. Saylor, supra*, 5 Cal.3d at p. 693.) “When the Legislature has ‘adopted a plausible interpretation of the constitutional provision,’” California courts “defer to its determination.” *People v. Giordano* (2007) 42 Cal.4th 644, 656, quoting *Birkett, supra*, 21 Cal.4th at p. 244.) The courts will not invalidate a legislative act under the California Constitution “unless there is a plain and unmistakable conflict between the statute and the Constitution.” (*Methodist Hosp. of Sacramento v. Saylor, supra*, 5 Cal.3d at p. 693.)

3. The Legislature Has Authority Over Elections And Over The Secretary Of State.

The Legislature holds—and has held, since long before Proposition 4—broad powers to control the duties and activities of constitutional officers, including the Secretary of State. (See *Love v. Baehr* (1874) 47 Cal. 364, 368 [“In the performance of this duty, the Legislature may rightfully exercise a wide discretion. It may assign to each of these officers any duties, which, by the most liberal interpretation, can be held to come within the general scope of that class of duties which have usually appertained to such offices, as they were understood by the framers of the Constitution.”].) “And while the California Constitution vests the ‘supreme executive power’ of the state in the Governor (Cal. Const., art. V, § 1), it ‘follows a minimalist approach’ with respect to the Controller and the other officers, ‘that is, it provides for the office but primarily leaves it to the Legislature to define the duties and functions’ of the office.” (*Brown v. Chiang* (2011) 198 Cal.App.4th 1203, 1230, quoting *Tirapelle v. Davis* (1993) 20 Cal.App.4th 1317, 1327.)

As the Secretary of State’s Response to the Order to Show Cause explains, SCA 3 (later Proposition 4) recognized that this plenary legislative authority would mean the Legislature would implement and interpret the measure, without any stated limitation on its interpretation of the relevant terms. (Response to OSC at pp. 25–26; Assem. Comm. On Const. Amends. Staff Analysis: SCA 3 (Alquist), Pet’n Ex. C, emphasis added [“requires *Legislature* to provide for an open presidential primary”].) This is fully consistent with the text of section 5(c), the “shall” language of which is directed at the Legislature.³

³ Petitioners notably do not rule out that the Legislature had the authority to interpret section 5(c)’s “recognized” language, as it did in enacting

4. The Legislature Has Authority To And Has Properly Legislated Concerning The Secretary of State's Exercise Of Discretion.

The Legislature, exercising the powers described above, has provided considerable authority and discretion to the Secretary of State (*Cty. of San Diego v. Bowen* (2008) 166 Cal.App.4th 501, 509 [“Our analysis begins with the sweeping grant of authority provided by the Legislature to the Secretary with respect to the conduct of elections generally.”].) “The Secretary of State is the constitutional officer charged with administering California’s election laws [citations], and his interpretations of those laws are entitled to substantial judicial deference.” (*Burton v. Shelley* (Cal., Aug. 7, 2003) 03 Cal. Daily Op. Serv. 7066, at *1.) Even though many of the Secretary of State’s responsibilities are ministerial, it is indisputable (and Petitioners appear to concede (see Pet’n Reply at p. 5 [describing section 5(c) as “the crown jewel” of the Secretary of State’s “constitutional authority under the California Constitution”])) that the Secretary of State also has discretionary duties.⁴

Elections Code section 6000.1 in 2019, stating that this provision “is not at issue in this case” and “is better left for another day.” (OSC Reply at p. 6 fn. 1.)

⁴ To argue for their entitlement to a writ of mandate, Petitioners in places appear to argue that the Secretary of State’s responsibilities under section 5(c) lack discretion, but even those references reveal that the Secretary of State must first make findings regarding whether a candidate is sufficiently recognized. (Pet’n at pp. 26 [“Secretary of State’s ministerial duty is to place the candidate on the ballot” if he or she is “recognized” under article II, section 5(c)], 32 [Secretary of State is “charged with a clear, present ministerial duty to ensure that the constitutional provision at issue is enforced”]; Pet’n Reply at p. 19 [“perform his constitutional duty to place candidates ‘recognized’ throughout the State, and Nation, on the March 2020 Presidential primary ballot”].)

A writ of mandate “will not issue to control the manner in which a public official, particularly a constitutional officer like the Secretary of State, exercises discretion.” (*Burton v. Shelley*, *supra*, 2003 WL 21962000, at *3 (conc. opn. of Kennard, J.), citing *Anderson v. Phillips* (1975) 13 Cal.3d 733, 737; *Lindell Co. v. Board of Permit Appeals* (1943) 23 Cal.2d 303, 315; see also *Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 442.) Thus, this Court has applied a “clear error” standard to the Secretary of State’s exercise of discretion. *Burton v. Shelley*, *supra*, 2003 WL 21962000, at *2.

Here, the Legislature—through SB 27— has permissibly used its plenary authority to guide actions within the Secretary of State’s sphere of discretion.⁵ (See *id.* at *3 [“The current recall provisions contain ambiguities which require the Secretary of State to exercise his discretion. If the Legislature disagrees with the manner in which the Secretary of State has exercised his discretion, it is within the Legislature’s province to specify other procedures.”].) Notably, the Legislature had this authority even before SCA 3 amended the California Constitution, which was not “necessary—either as a grant or limitation of legislative power” because the California Constitution “already expressly provide[d] for legislative power over primaries.” (Assem. Comm. on Elec. And Const. Amends. Analysis of SCA 3 (Alquist), OSC Response Ex. I.)

⁵ It is not, as Petitioners assert, the Secretary of State’s “burden” to prove that the Legislature could enact SB 27. (OSC Reply at p. 20.) “A party *challenging* the constitutionality of a statute carries a heavy burden. The courts will presume a statute is valid unless its unconstitutionality “clearly, positively and unmistakably appears”; mere doubt is not sufficient reason for a judicial declaration of invalidity.” (*Mathews v. Harris* (2017) 7 Cal.App.5th 334, 349, quoting *In re Ricky H.* (1970) 2 Cal.3d 513, 519, emphasis added.)

Petitioners seek to paint SB 27 as a novel deviation, but that the 1970s initiatives, legislation, and public discourse did not include a discussion of a requirement for candidates to release their tax returns is likely best explained by the fact that candidates have consistently released their tax returns since then. Bach, *Will We Ever See Trump's Tax Returns—And Does It Matter?*, *Fortune* (Apr. 10, 2019), <<https://fortune.com/2019/04/10/trump-tax-returns/>> [as of Sept. 12, 2019]; NPR, *A History of Presidential Tax Returns* (Feb. 15, 2019) <<https://www.npr.org/2019/02/15/695054845/a-history-of-presidential-tax-returns>> [as of Sept. 12, 2019].) Indeed, the consistency with which Republican and Democratic presidential candidates have released their taxes over decades indicates that “recognized” presidential candidates nationally and in California do so. But regardless of any claimed novelty, the Legislature permissibly enacted SB 27 based on its plenary authority over elections.

B. A Comparison of Section 5(c) to Similar Provisions in Other States Highlights the Appropriateness of Legislative Implementation in California.

The authority of the Legislature to enact SB 27, consistent with article II, section 5(c), is further supported by comparison to similar statutes in other states. Other state statutes expressly delegate relevant duties *solely* to the secretary of state or an administrative body and provide greater specificity regarding the “recognition” authority. California’s constitutional provision, by contrast, leaves room for the Legislature to implement additional requirements regarding presidential primary elections and to guide the discretion vested in the Secretary of State by section 5(c).

As the Secretary of State highlights, the Legislature did not pass or the Governor vetoed several proposed enactments that would have given the Secretary of State “sole discretion” over the “recognition” of

candidates, with the final version approved by the voters (Proposition 4) not reflecting sole delegation or exclusive authority. (See OSC Response at pp. 15–16.) “As a general principle, the Legislature’s rejection of specific language constitutes persuasive evidence a statute should not be interpreted to include the omitted language.”⁶ (*Doe v. Saenz* (2006) 140 Cal.App.4th 960, 985; see *California Mfrs. Assn. v. Public Utilities Com.* (1979) 24 Cal.3d 836, 845–846.) In contrast, Oregon enacted the type of “sole discretion” language that California rejected. (See OSC Response at p. 14 n.1.) Other states have as well, further demonstrating that the California Legislature’s rejection of a “sole discretion” model was likely intentional and meaningful. (Compare, e.g., Tenn. Code Ann. § 2-5-205(a)(1) [“The names of candidates for president of the United States shall be printed on the ballot for the presidential preference primary only if they are: (1) The names of persons whom the secretary of state, in the secretary of state’s sole discretion, has determined are generally advocated or recognized as candidates in national news media throughout the United States.”]; Wis. Stat. Ann. § 8.12(b)⁷ [giving “sole discretion” to a committee “to determine that a candidacy is generally advocated or recognized in the national news media throughout the United States”].)

Some states, including some of the same states that vest sole discretion in the secretary of state or a candidate selection committee to make the required determination, also provide that the secretary of state or other candidate selection committee should be guided specifically by

⁶ Petitioners elevate legislative digest language over the statutory and constitutional text in arguing that this change of wording is without meaning. (OSC Reply at pp. 9–10.)

⁷ This provision was enacted in 1967. (See *Labor and Farm Party v. Elections Bd.* (1984) 117 Wis.2d 351, 356 [344 N.W.2d 177, 179].)

candidates' recognition in the news media in determining whether to include a candidate on the presidential primary ballot.⁸ (See, e.g., Conn. Gen. Stat. Ann. § 9-465 [enacted 1977]; Mich. Comp. Laws Ann. § 168.614a; Md. Code Ann., Elec. Law § 8-502(c)(2); Neb. Rev. Stat. Ann. § 32-614; Tenn. Code Ann. § 2-5-205(a)(1); Wis. Stat. Ann. § 8.12(1)(b).) Courts have recognized that even more specific provisions like these continue to allow discretion. (See *Kay v. Austin* (6th Cir. 1980) 621 F.2d 809, 812 [upholding Michigan's provision because its terms were "capable of narrow and reasonable applications, which the Secretary of State appears to have given them"]; *Belluso v. Poythress* (N.D. Ga. 1980) 485 F.Supp. 904, 908 [describing Georgia's standard as "admittedly broad"]; *Quinn v. Stone* (Fla. 1972) 259 So.2d 492, 494 [recognizing the discretion implicit in Florida's provisions and upholding exclusion of a candidate]; *Labor & Farm Party v. Elections Bd., State of Wis.*, *supra*, 344 N.W.2d at p. 178 [describing Wisconsin's provision as "ambiguous"]; *McCarthy v. Elections Bd.* (1992) 166 Wis.2d 481, 244 [identifying limited circumstances in which the selection committee abused its discretion by not considering at all the recognition standard as to some candidates]; see also Gillooly, *Larouche v. Kezer: A cursory look at Connecticut's hopelessly vague media recognition statute* (1995) 15 QLR 269, 271.) Because even more specific provisions than article II, section 5(c) still allow for discretion, it follows that the section 5(c) allows for further Legislature interpretation.

⁸ A 1970 Analysis of SCA 3 for the Assembly Committee of Elections and Constitutional Amendments stated that candidates would be selected "based on national or statewide recognition in the news media." (OSC Response Ex. I.) But those terms were not included in Proposition 4 and have been only one component of the Secretary of State's findings on recognition in the past. (OSC Response at pp. 19–23.)

C. SB 27 Promotes the Same Objectives of Openness and Transparency That Motivated Proposition 4 and Other 1970s Election Reforms.

Proposition 4, enacted in 1972, came in the midst of a wave of nationwide election reform intended to promote openness and transparency. It must be understood in that broader context.

Contemporaneous with approving Proposition 4, California voters were also instituting a series of elections disclosure laws to make the choice of political candidates informed and meaningful.⁹ (See *supra*, pp. 10–11.) Consistent with those broader policy aims, Proposition 4 sought to empower voters and prevent top-down political anointments in presidential primaries. (Voter Information Guide, Pet’n Ex. D.) Specifically, Proposition 4 meant to address the issue that California had “usually nominated supported favorite sons, or incumbent presidents [who had] run unopposed in the primary.” (Staff Analysis, OSC Response Ex. M.) As its proponents put it, Proposition 4 promised to “give voters a meaningful voice in choosing their party’s presidential nominee.” (Voter Information Guide, Pet’n Ex. D.)

SB 27 advances the same objectives of transparency and openness that motivated Proposition 4. (See *California Cannabis Coalition v. City of*

⁹ California was not alone in those goals. For example, the Florida Supreme Court explained in applying an analogous provision that a “matter of such magnitude as the selection of the best possible candidate for the highest position in this nation should be controlled by the public’s right to a complete expression of their views and not by the individual’s personal and tactical choices which he exercises as he pursues this goal. (*Yorty v. Stone* (Fla. 1972) 259 So.2d 146, 149.) Denying a request from the Los Angeles mayor to be kept off of the Florida presidential primary ballot, the court explained that the “people of Florida should not be denied the right to express themselves in such a choice on any announced candidate, while other states are granted that right of choice, as such candidate chooses.” (*Id.*)

Upland (2017) 3 Cal.5th 924, 933 [When “construing constitutional provisions and statutes,” courts’ “primary concern is giving effect to the intended purpose of the provisions at issue.”].) Indeed, the tradition of presidential candidates releasing their taxes dates back to tax evasion by President Richard Nixon relating to the backdated donation of presidential papers in 1969 that was uncovered in 1973—the same time period in which Proposition 4 was passed. (Zuckoff, *Why We Ask to See Candidates’ Tax Returns*, New York Times (Aug. 5, 2016) <<https://www.nytimes.com/2016/08/06/opinion/why-we-ask-to-see-candidates-tax-returns.html>> [as of Sept. 12, 2019].) “Presidential tax transparency bolsters the confidence of individual income taxpayers that their elected leader also pays part of the price ‘for civilized society.’ Disclosure dispels the pernicious notion that ‘only the little people pay taxes,’ a notion that undermines tax morale and tax compliance where it takes root.” (Hemel, *Can New York Publish President Trump’s State Tax Returns?* (2017) 127 Yale L.J. F. 62 <<http://www.yalelawjournal.org/forum/can-new-york-publish-president-trumps-state-tax-returns>> [as of Sept. 12, 2019], footnotes omitted.) Tax returns provide essential information regarding conflicts of interest, foreign investments, business success or failures, and compliance with tax laws. (See Rosenthal, *Congress Should Request the President’s Tax Returns*, Tax Policy Center (Feb. 8, 2019) <<https://www.taxpolicycenter.org/taxvox/congress-should-request-presidents-tax-returns>> [as of Sept. 12, 2019] [“disclosing tax returns of presidents, vice presidents, and candidates for these offices is important because it increases public confidence in the government and support for our voluntary tax system” and “enhances the ability of Congress to oversee the executive branch, which is critical to our checks and balances”]; Wonderlich, *Congress Should Mandate Tax Return Disclosure for Presidential Candidates*, Sunlight Foundation (May 12, 2016) <[24](https://sunlightfoundation.com/2016/05/12/congress-should-</p>
</div>
<div data-bbox=)

mandate-tax-return-disclosure-for-presidential-candidates/> [as of Sept. 12, 2019].)

In passing SB 27, the Legislature made specific findings regarding the importance of disclosure of recent income tax returns to voters making “informed, educated choices in the voting booth.”¹⁰ (Elec. Code, § 6881.) It explained that “income tax returns provide voters with essential information regarding the candidate’s potential conflicts of interest, business dealings, financial status, and charitable donations.” (Elec. Code, § 6881; see Elec. Code, § 8900.) The disclosure requirements in SB 27, like those in the Political Reform Act of 1974, enable California voters to make an informed decision on who to support for president or governor. By giving voters the opportunity to make a meaningful choice when choosing between candidates, SB 27 promotes the precise objectives that motivated Proposition 4.

Notably, Petitioners have not fully explained how SB 27 hinders Proposition 4’s objectives. Nor could they. For one, there appears to be little risk of the “favorite son” device making a reappearance thanks to SB

¹⁰ Research on disclosure suggests the Legislature correctly determined that voters care about information regarding the source of campaign message and can use that information effectively to inform their decisionmaking. (See Eagly & Chaiken, *The Psychology of Attitudes* (1993); Haas, *Effects of Source Characteristics on Cognitive Responses and Persuasion*, in *Cognitive Responses in Persuasion* (Petty, Ostrom & Brock, eds., 1981), at p. 32.) Disclosures are only effective, however, if the voter receives the disclosure before or at the same time as receiving the campaign message. (See Greenberg & Tannenbaum, *The Effects of Bylines on Attitude Change* (1961) 38 *Journalism & Mass Comm. Q.* 535.) SB 27’s requirement that disclosures be made several months before the primary is essential to its efficacy.

27.¹¹ Indeed, a Californian last won a major party’s California presidential primary nearly four decades ago when Ronald Reagan won the Republican presidential primary in California. In the current Democratic race for president, a candidate from Delaware leads the polls in the California primary.¹² In any event, the decision to release one’s taxes is within the sole control of *the candidate*, not of the state political party or current officeholders—who were the target of Proposition 4’s concerns.

Petitioner’s theory that SB 27 would mark the return of candidate gamesmanship is also purely speculative. (See OSC Reply at p. 5 [SB 27 allows a candidate to “refuse to release 5 years of personal tax returns to Respondent and he or she will not be on the ballot, even though that person is in fact a ‘recognized candidate.’”].) It appears to depend both on a history of brokered political party conventions that no longer exists, and on the historically late timing of the California presidential primary that is no longer the case. (See Pet’n Reply at 11 [noting current date and shift in timing]; *Cast a ‘No’ Vote on Proposition 4, supra* [“The California primary is a late one, coming just a few weeks before national party conventions.”].)

¹¹ As two scholars explained, “we don’t tend to worry about the ‘favorite son’ phenomenon posing an obstacle to decisive electoral choice in the same way that the Framers did two centuries ago.” (Levinson & Young, *Who’s Afraid of the Twelfth Amendment?* (2001) 29 Fla. St.U. L.Rev. 925, 952 [discussing the decline of the importance of a “favorite son” principle in the related context of the Electoral College].)

¹² The leading Californian in the race is currently third or fourth ranked in polling. (See *SurveyUSA Election Poll #24948*, SurveyUSA (Aug. 6, 2019) <<http://www.surveyusa.com/client/PollReport.aspx?g=949b0f46-a4a4-4480-b675-711e9d6fd657>> [as of Sept. 12, 2019].) In 1992, former Governor Jerry Brown lost to President Bill Clinton in California. (Roberts, *Clinton Clinches Demo Nomination*, S.F. Chronicle (June 3, 1992) A1, attached as Exhibit E.)

Petitioners identify no reason to believe that will occur during the 2020 presidential election or in any future election.¹³

IV. CONCLUSION

Because SB 27 is consistent with the text, history, and purpose of article II, section 5(c), and in light of the Legislature's plenary authority, *amicus* respectfully urges the Court to deny the writ of mandate.

Dated: September 13, 2019 Respectfully submitted,

By: /s/ Maxwell V. Pritt

*Maxwell V. Pritt (SBN 253155)
Alexander J. Holtzman (SBN 311813)
BOIES SCHILLER FLEXNER LLP
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Telephone: (914) 749-8200
Facsimile: (914) 749-8300
mpritt@bsfllp.com
aholtzman@bsfllp.com

David Boies
(*pro hac vice* forthcoming)
BOIES SCHILLER FLEXNER LLP
333 Main Street
Armonk, NY 10504
Telephone: (415) 293-6800
Facsimile: (415) 293-6899
dboies@bsfllp.com

Counsel for Amicus Curiae
Dean Erwin Chemerinsky

¹³ President Trump—the first major party candidate not to release his taxes or at least a summary of his taxes (as with Gerald Ford)—is evidently not interested in strategically withholding his tax returns to avoid appearing on the California presidential primary ballot given that he is separately suing in federal court to have SB 27 invalidated on federal law grounds.

DECLARATION OF MAXWELL V. PRITT

I, Maxwell V. Pritt, declare:

1. I am an attorney admitted to practice before the courts of the State of California and before this Court. I am a partner at the law firm of Boies Schiller Flexner LLP and counsel for *amicus curiae* Dean Erwin Chemerinsky in this matter. I have personal knowledge of the matters set forth in this declaration, and would testify to the same if called on by the Court.

2. Attached to the *Amicus Curiae* Brief of Dean Erwin Chemerinsky in Support of Respondent are Exhibits A through E.

3. Attached as **Exhibit A** is a true and correct copy of the editorial *Open Primary Wins Strong Voter Favor*, Redlands Daily Facts (June 8, 1972) p. 18, retrieved from the NewspaperArchive online database.

4. Attached as **Exhibit B** is a true and correct copy of the newspaper article *The Last Winner Take All?*, San Francisco Examiner (May 28, 1972) p. 8, written by Sydney Kossen and retrieved from the NewsBank online database.

5. Attached as **Exhibit C** is a true and correct copy of the editorial *Taking Primaries Out of Smoke-Filled Room*, Pomona Progress Bulletin (May 21, 1972) p. B-2, retrieved from the NewspaperArchive online database.

6. Attached as **Exhibit D** is a true and correct copy of the editorial *Cast a 'No' Vote on Proposition 4*, San Mateo Times and Daily News Leader (June 2, 1972) p. 28, retrieved from the NewspaperArchive online database.

7. Attached as **Exhibit E** is a true and correct copy of the newspaper article *Clinton Clinches Demo Nomination*, S.F. Chronicle (June

3, 1992) p. A1, authored by Jerry Roberts and retrieved from the NewsBank online database.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed on September 13, 2019, in San Francisco, California.

/s/ *Maxwell V. Pritt*

Maxwell V. Pritt

CERTIFICATE OF COMPLIANCE

I, the undersigned, hereby certify that pursuant to California Rule of Court, rule 8.204(c)(1), the enclosed brief was produced using 13-point Roman type font and has approximately 5,846 words, including footnotes, based on the word count of Microsoft Word, the computer program used to prepare this brief, not including the cover, the tables of contents and authorities, signature blocks, the certificate of service, and this certificate.

Dated: September 13, 2019

Respectfully submitted,

By: /s/ Maxwell V. Pritt
Maxwell V. Pritt (SBN 253155)
BOIES SCHILLER FLEXNER LLP

Counsel for Amicus Curiae
Erwin Chemerinsky

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am employed in the County of San Francisco, State of California. I am a citizen of the United States, over the age of eighteen years and not a party this action. My business address is 44 Montgomery Street, 41st Floor, San Francisco, CA 94104.

On September 13, 2019, I served a copy of the following:

**APPLICATION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF OF DEAN ERWIN CHERMERINSKY
IN SUPPORT OF RESPONDENT;
PROPOSED AMICUS CURIAE BRIEF**

on the parties of this action by electronically mailing a true and correct copy through Boies Schiller Flexner LLP's electronic mail system to the email addresses set forth below:

Attorneys for Respondent ALEX PADILLA,
California Secretary of State, in his official capacity

Jay C. Russell
Deputy Attorney General
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102
Jay.Russell@doj.ca.gov

Paul Stein
Deputy Attorney General
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102
Paul.Stein@doj.ca.gov

Chad Stegeman
Deputy Attorney General
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102
Chad.Stegeman@doj.ca.gov

Anthony Hakl
Deputy Attorney General
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102
Anthony.Hakl@doj.ca.gov

Attorneys for Petitioners JESSICA MILLAN PATTERSON and
CALIFORNIA REPUBLICAN PARTY

Charles H. Bell, Jr.
Thomas W. Hiltachk
Terry J. Martin
BELL, McANDREWS & HILTACHK, LLP
455 Capitol Mall, Suite 600
Sacramento, CA 95814
cbell@bmhlaw.com
thiltachk@bmhlaw.com
tmartin@bmhlaw.com

I further certify that in accordance with Code of Civil Procedure section 1013 and following ordinary business practices, I also placed a true and correct copy of the above document(s) into a sealed, fully pre-paid envelope for collection and mailing with the United States Postal Service to the mailing addresses set forth above.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed on September 13, 2019, in San Francisco, California.

By: /s/ Malika Amaru
Malika Amaru

EXHIBIT A

Open Primary wins strong voter favor

Going directly to the people, the Legislature managed to override Gov. Reagan's two vetoes of bills to establish in California the Oregon-style Presidential Primary.

That Proposition 4 was strongly favored by the voters is no occasion for surprise. The public has long been fed up with the artificial primaries in which a Governor has kept the main candidates from other states off the ballot by declaring himself a Favorite Son. The Legislature, supported by the voters, has clipped the wings of our Governors.

The obvious appeal of the Open Primary is that people want to vote for the man they prefer. They want him to be on the California ballot, whether he chooses to be or not. This was reflected Tuesday in telephone calls to the Registrar of Voters from citizens who were angry because the name of Gov. George Wallace was not on the ballot.

While guaranteeing that every California Presidential Primary will be "the super bowl," the system will certainly have faults which we will all have to grin and bear. The Open Primary will make every Tom, Dick and Harry who ever dreamed of sitting at that desk in the Oval Office an official candidate in California. Now what harm is there in that?

Well, do you remember what happened Sunday evening? That was going to be the climactic debate between Senators McGovern and Humphrey. Instead, a judge held that under the equal time rule, these two candidates could not monopolize the tube. He wrecked it. Shirley Chisholm got into the act. And, of course, Mayor Sam Yorty hurried in. (He won only one per cent of the vote Tuesday). This is a preview of things to come under the Open Primary.

Then we come to the acute case of double talk which now afflicts American politics.

On the one hand, the purists insist that there should be a strict ceiling on campaign spending. Otherwise, tainted money will influence politics, they say. Laws have been passed and candidates make pious pledges to hold down their spending.

But when the heat is on, candidates and their supporters become frenzied to win. They simply cannot reconcile themselves to a fastidious view of finance while they imagine their own opponents will be spent, as the McGovern and Humphrey campaigns vividly show.

The Open Primary does not give a Presidential candidate the option of staying out of California. He is compelled to get into this costly race. Once in, he must take big bids of money wherever he can find it, or perish politically.

Let's have none of this "holier than thou" talk about campaign money from an electorate that gives a candidate no escape from the trap that has been set for him.

Will the public be satisfied with the Primary that Proposition 4 will give California beginning in 1976? We predict that this ballot measure will turn out to be Step One in a two-step change. The second reform will abolish the winner-take-all rule, and will divide the delegates according to the ballot strength of the contenders.

Oust the cheaters

"Term paper mills" are a disgrace to the college world.

From these operators who advertise their services, a student can buy a term paper on nearly any standard subject, submitting it as his own, or using it as the basis for a rewrite.

Any student who trucks with a term paper mill is a common cheat and should be kicked out of college.

At long last, one major college has identified a pair of culprits and dismissed them.

The school is UCLA. The bogus term papers, submitted by students, were supposedly unique in Los Angeles but identical copies were found in the files of a vendor by a professor and his assistant.

Let this precedent be followed by every school where counterfeited student work is discovered.

The Newsreel

A good measure that you are out of touch with the times is when you get the feeling that all your favorite magazines have improved themselves into unreadability.

Acupuncture really isn't so mysterious. True, nobody knows exactly why it works, but the same thing is true of aspirin.

If the basketball and hockey seasons can finally come to an end, it is probably safe to say of the presidential primaries that this too shall pass.

It's easier to give Dad a treat on Father's Day than it used to be. All you have to do is give him a Sunday off by announcing that the family is going to eat indoors.

Eph Pottle says he assumes it's possible, but he has never known a husband and wife both of whom liked buttermilk.

It's fascinating to read the home decoration magazines, discovering all the improvements that couldn't possibly work in your own house.

There are so many astronauts that some of them may have to be laid off. Either that or add another moon.

With a Grain Of Salt

By FRANK MOORE

If you are planning a company picnic and it looks like rain, I have a suggestion. Telephone some of your Congressional friends and tell them you would like them to pray for clearing skies.

I know that they have special influence with the Man Upstairs because Tuesday evening the rain was trying hard to fall all over Redlands. At the same time, Plymouth Village was trying to hold its annual Strawberry Festival on a lawn.

When I arrived about 7 o'clock, there was a big patch of blue sky overhead and all the strawberry-and-ice cream eaters were sitting around at the tables as if it were just an ordinary Spring evening.

It may be that the Congressmen got a little help from outsiders - A. R. Schultz, Jr., a Presbyterian, and Frank Toothaker, a Methodist - but I still give credit to the main team.

A Strawberry Festival is a sort of picnic where you eat a slab of vanilla ice cream with crushed strawberries poured over it.

This is a real, nice comfort, old-fashioned outdoor where people just enjoy sitting around and talking and being part of the crowd.

Paul Allen, the historian, told me that I was on the right track when I said that Harry Truman was great for the dedication of the Pioneer Mothers statue on Foothill boulevard at Euclid avenue in Upland. How did he know?

Well, sitting right there at a picnic table was his mother, Mrs. Frank Allen, a resident of Plymouth Village. At the time of the dedication she was the Regent of the San Antonio chapter (Ontario-Upland) of the DAR, and participated in the formalities.

Paul says that the statue is one of 12 which were located along the National Old Trails route. At that time he believes it was in February 1929 - Mr. Truman was President of the National Old Trails Association.

"What was remarkable for 1929 was that he came out from Missouri by air," Paul says.

Unlike the local Congregationalists, the DAR and the National Old Trails crowd did not have a special "in" with the Man Upstairs. The ceremony was raised out and moved to the Chaffey High School auditorium.

There is, however, a simple explanation for the rain. The Orange School of 1929 was held in February.

Paul Allen's neighbor, D. J. Stewart - a singing Congregationalist - was there and the talk turned to his name. As it happens, D. J. lives in the house built by E. G. Judson.

With Frank E. Brown, Judson was the founder of Redlands. As it also happens, the "J" in "D. J." stands for "Judson." Is there any connection between Mayor Judson of yesteryear and Donald Judson Stewart?

"No, there isn't," Decay explained. "I was named for an uncle - no kin of E. G."

He shakes. That spoils a good story.

Decay is a good guy but he's hung up on Parson Weems' tale of young George Washington and the cherry tree.

I recommend to our mutual President - Lyndon Baines Johnson. When Ole LBJ was whistling-stoppage through the South in '64, he managed to turn up at least one kinkfolk at every tank town along the campaign route.

If LBJ was living in that house at Highland and Center in Redlands, he'd dangled well be at least a cousin of E. G. Judson. Just ask him and he'd tell you.

As I was leaving the Plymouth Village grounds, a car stopped by my side as I was walking past the old J. S. Edwards house. A young man stuck his head out and asked me if it was really going to be moved away. I told him I understood that Don Wilcott intends to move it down to his Orange Tree development in the Mission School neighborhood.

He sighed. He had wanted the house real bad.

"It's so ugly its beautiful," he said. "I'd had it I would live in it and I wouldn't change a thing."

A friend of his who is in the home decorating business, he said, told him that the house is so tall and so big it would have to be cut down the middle into two parts. Then the upper stories would have to be cut away from the lower stories.

He mentioned some cost estimate - perhaps it was \$17,000 - to haul it to Loma Linda. Whatever the actual price, it was more than his pocketbook would afford.

The Last Mile



Redlands

Yesterdays

FIVE YEARS AGO

Temperatures - Highest 67, lowest 55.

Redlands and San Bernardino city officials express radically opposite views on how much of the Marigold Farms acreage should be devoted to a proposed San Bernardino Airport.

Redlands Building department records its first million dollar month in 19 years during May when construction valued at \$1,011,445 authorized.

Special legislation to establish a 25-foot setback on Brookside and West Olive avenue slated for a city hearing June 20.

TEN YEARS AGO

Temperatures - Highest 81, lowest 52.

University of Redlands Trustees disclose plans to construct eight new buildings totaling more than \$2-million by 1980.

Rev. Harry G. Suttner of Saginaw, Mich., accepts call to pastorship of the Redlands First Congregational church, effective September 1.

Mrs. Donald DeLang is installed as president of the Redlands chapter of the City of Hope.

FIFTEEN YEARS AGO

Temperatures - Highest 71, lowest 58.

Milton Hunnec receives the first doctorate ever awarded by the University of Redlands as highlight of Commencement ceremonies for 1960.

Redlands Red Cross chapter gets \$50 gift when panists fail to guess Miss Frances Willis' occupation on TV and the director her winnings go to the Red Cross.

Tom Sanborn Jr. sets new record in the 100-yard dash and will go on to State finals.

Minute Pulpit

Apostle Jesus spoke to them, 'I am the light of the world; he who follows me will not walk in darkness, but will have the light of life.' - John 8:12.

You never get to the end of Christ's words. There is something in them always behind. They pass into proverbs, they pass into laws, they pass into constitutions; but they never pass away and after all the use that is made of them, they are still not exhausted. Arthur J. Stanley, former Dean of Westminster.

Berry's World



"Look, lady - this pipeline wasn't my idea. I'm just doing my job!"

Bandwagon rolls for McGovern

By BRUCE BLOSSAT

Sen. George McGovern's triple sweep over Sen. Hubert Humphrey in the California, New Jersey and New Mexico primaries gives him so much presidential nomination strength that it now seems unlikely anyone can stop him.

His delegate bag for the day could run as high as 370, including the 17 he won as an unopposed contender in his own state of South Dakota. He gets 271 in California, all basis in California, probably upwards of 70 out of 109 in New Jersey, nine or 10 in New Mexico.

McGovern's adversaries, not least Humphrey himself, are quick to note that the South Dakota's winning California percentage may prove to be less than half that which was suggested for him in a recent state poll. But presidential nominations are gained by amassing delegates, not by totaling up percentages.

Humphrey's fairly close showing in California may encourage him and his followers, plus others in the Democratic party who appear to have serious doubts about McGovern's electability in the fall against President Nixon.

Yet the hard reality of the delegate count is working for McGovern. NEA's periodic checks of the entire country have shown the senator to be on a sharply rising curve. These latest results only arch it higher toward 1,200 delegates needed for nomination at Miami Beach in July.

On top of that, NEA's newest survey provides preliminary indications of widespread, though little noticed, delegate gains for McGovern that may bring him unstoppable momentum.

More decisive still, the evidence suggests that Humphrey is losing some of the delegate potential indicated for him earlier and may this time end up with fewer delegates in prospect than when the last check was made some three weeks ago.

Humphrey, of course, gained nothing in California. He was wiped out in New Mexico because the disabled Gov. George Wallace ran second and thus shared the delegates with McGovern.

These events strongly underscore survey findings that suggest Humphrey is losing delegate prospects in groups of one to five in state after state.

To be sure, he is tough and resilient. He knows many of the Democratic governors who gathered at the National Governor's Conference at Houston have misgivings about McGovern. As an earlier column laid out, Humphrey's strategists offer a script that envisions his eventual triumph in the convention on a late ballot.

But McGovern's victories do heighten his bandwagon momentum, enhance previous questions about Humphrey's electability, and threaten the latter's chances of getting enough money to fight on at full pace.

Uncommitted delegates may begin to topple McGovern's way. Some feel only loosely to Sen. Edmund Muskie, like the 62 in Illinois, may quickly break and move to the still rising front-runner.

Psychological advantage does go with winning, especially when the victories come in unexpected places. Disturbed for four as has just happened. The flaw in the Humphrey condition and strategy is that they have indeed been grievously damaged by the June 6 outcome. They need the valiant Minnesota senator plainly wants to fight on.

Ah, so... I'm wrong!

By NORTON MCKRIDGE

Business executive Dean R. Gidney, of Manhattan and Bridgehampton, L.I., flew recently from New York, via Fairbanks, to Tokyo.

As the plane was approaching the airport, the stewardess on the PA system announced that the plane was about to land, said most of the usual things, and then declared:

"We shall disembark through the front end, and remember, ladies first."

There was a pause, and then she added:

"Oh, oh, wrong! I forgot. This is Tokyo. Men first!"

Two of my favorite people Lota and Victor Davidson. I like them for a number of reasons, but mostly, perhaps, because they have a special language all their own.

The other day, at a party given by Alan and Dannie Kay, Victor was trying to tell me something about a talented lady named Jenny who'd done a great job for a certain company.

He turned to Lota and said: "Honey, what was the name of that firm that Jenny worked for?"

"Gee," said Lota, "I can't remember."

"No," said Victor, "I mean the one before that?"

Before dashing off to Australia, Carol Channing visited Hong Kong and there, she tells me, she was shepherded around by a gentleman named Run Run Shaw, the movie magnate of the Orient.

Saw, a dynamic man indeed, led Carol a merry chase, taking her everywhere and introducing her to everybody.

"I'll never forget those days with him," writes Carol. "We started out early in the morning and wound up late at night. It was Run Run Shaw and Drag Drag Channing!"

Director Ralph Nelson nearly went nuts while shooting the execution scene in "Witch of Black Mountain" in 1960. He had a bunch of natives on horses all lined up and he instructed each one to start galloping, one after the other, as he called out their numbers.

But every time he began shouting: "One, Two, and so on, the No. 4 horseman would start off first. And every time that Ralph rebuked him, so bad as that which arises from goodness tainted."

Britain's Prime Minister Heath can have a new career any time he wants it. Recently he was invited to conduct the prestigious Vienna Philharmonic Orchestra. The invitation was extended by Austrian President Dr. Bruno Kreisky, who assured Mr. Heath that "the orchestra will play as you conduct them."

"That," said the Prime Minister, according to friends, "is more than I can say about Parliament."

EXHIBIT B

Duke of Windsor Dies

LONDON — (AP) — The Duke of Windsor, the former King Edward VIII of England who gave up his throne for "The Woman I Love," died at his Paris home early today, Buckingham Palace announced.

He was 77.

A Buckingham Palace statement said: "It is announced with deep regret that His Royal Highness, the Duke of Windsor, has died at his home in Paris at 2.52 today, Sunday, May 28, 1972."

This was 6:25 p.m. PDT Saturday.

The cause of death was not announced but Agence France Presse said he died of a throat ailment. His secretary only last week denied published reports that the Duke was taking cancer treatments for throat cancer and had great difficulty swallowing.

The duke's decision in 1936 to become the first of 60 British rulers to abdicate rocked the 1000 year old British monarchy to its foundations.

An obituary describing the Duke's colorful career is on Page A-12 today.

But his determination to marry American divorcee, Mrs. Wallis Warfield Simpson, whatever the sacrifice, became one of the great love stories of all time.

The Duke, uncle of Queen Elizabeth II had been ill for some time at his home in the fashionable Bois Du Boulogne on the outskirts of the French capital. He had lived in virtual exile since his dramatic abdication.

When Queen Elizabeth visited him during her state visit to France earlier this month, the ailing duke was not strong enough to come to the door to greet them.

The silver-haired duke, who would have been 78 on June 23, had been suffering from extreme fatigue for several weeks.

He died amid a growing feeling in Britain the government should invite him to spend his last years in his homeland.

"It is not right that the duke should spend his last years in exile, whether self-imposed or not," an opposition Laborite member of Parliament, Marcus Lipson, said in a motion to the House of Commons on May 20.

The visit by his royal niece climaxed a cautious restoration of contacts with the duke which was seen by many as a final forgiveness for his abdication—an act which shocked Britain's prewar generation of staunch monarchists.

Buckingham Palace said in its brief announcement that funeral arrangements would be announced later.

But it was understood the duke's body will be flown to London and will lie in state in St. George's.

—Turn to Page 13, Col. 1



DUCHESS AND DUKE OF WINDSOR

Fair

Fair through tomorrow except for coastal clouds night and morning. High in 56 on coast, 70 inland. Westerly winds 10-20 mph afternoons, locally stronger in Suisun Bay.

Complete report on Page B-8

San Francisco Examiner

FINAL Late Sports

Vol. 1972 No. 22

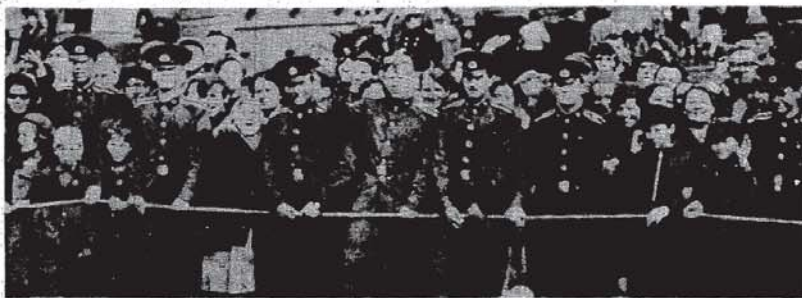
☆☆☆☆☆

SUNDAY, MAY 28, 1972

SU 1-2424

SUNDAY 35c

Leningrad Smiles for Nixons



Crowds, like this one, greeted and delighted President and Mrs. Nixon when their motorcade drove through Leningrad yesterday.

MOSCOW — (UPI) — After five days of grueling negotiations, President Nixon toured Leningrad yesterday, warned to the noisy welcome of thousands who poured into its rain-swept streets, and treated his hopes for "a world of peace and friendship."

The President's face broke into broad smiles as he waved back at cheering crowds lining the heavily guarded route of his motorcade into the city for a one-day visit.

Soviet troops and sailors holding back the throngs doffed their caps and smiled.

"My God!" exclaimed a Nixon aide.

"Crowds!" said Mrs. Nixon to her companion, "Wonderful, wonderful."

First Acclaim

It was the first outpouring of acclaim for the U.S. President by the Russian people since he arrived in their country last Mon-

day, and Nixon immediately responded like a campaigner.

Mrs. Nixon plucked petals from the bouquet of red roses she received at the airport welcome and handed them to Leningraders along the way.

While House aides said the crowd, standing four or five deep at some points, might have numbered in the hundreds of thousands, others in miniature and housewives with shopping bags jumped up and down behind guards at street corners, trying to catch a glimpse of the President as he rode past.

Wreath at Monument

Accompanied by his wife and Soviet President Nikolai Podgorniy, Nixon laid a wreath of white carnations at the Piskarev Cemetery Monument to the 470,000 Russians who died of famine and disease during the 900-day German siege of Leningrad.

Later, at a luncheon in his honor at the Czarist Mariinsky Palace, Nixon recalled seeing at the cemetery memorial the photograph and diary of 12-year-old Tanya Savicheva, who recorded her feelings of joy and despair as she and her family slowly starved to death.

"I only hope that the visit that we have had at the highest level with the Soviet leaders will have contributed to that kind of world in which the little Tanyas and their brothers and their sisters will be able to grow up in a world of peace and friendship among people, all people in the world," Nixon said.

Nixon, still buoyant over the signing of strategic arms limitation agreements with the Soviet leadership at the Kremlin Friday night, relaxed with a nine-hour sightseeing visit to the spacious, classical city on the Gulf of Finland that Peter the Great

built 200 years ago as Russia's "window looking on Europe."

The Nixons made the 90-minute flight from Moscow in a Soviet-piloted Ilyushin-62. Enroute, they celebrated the 80th birthday of Henry Kissinger, the President's national security adviser, with a cake decorated with 40 candies and a bottle of 80-year-old brandy supplied by Anatoly Dobrynin, the Soviet ambassador in Washington.

Leningrad, formerly St. Petersburg and Russia's capital until the Bolshevik Revolution of 1917, was clouded with mist and rain when the Nixon's plane landed at midnight at the airport guarded by troops in riot-battled gear.

About 200 Leningraders, bused to the airport especially for the President's arrival, waved small Soviet and American flags.

—Turn to Page 16, Col. 1

U.S. Jets Cut Rail Line At China Border

SAIGON — (UPI) — American Phantom jets have struck the closest to China since retaliatory bombing began April 6 and knocked out a major North Vietnamese railroad bridge 20 miles from the border, cutting a key rail line between Hanoi and the frontier.

The U.S. Command reported yesterday that the bombers used laser-guided, one-ton "smart bombs" on Friday to wreck the Lang Gai bridge, 69 miles northeast of the North Vietnamese capital. The attack dropped six of the 11 spans of the 1,000-foot bridge.

The bridge is on the rail line extending from the border city of Phanho in China to Hanoi, a distance of about 90 miles. The line is a major overland supply route from China to North Vietnam.

A North Vietnamese broadcast mentioned in Tokyo said the Communists had shot down two U.S. planes that raided "populated areas" in Ninh Binh and Ha Tinh provinces yesterday. It said "One U.S. pilot was captured in Ha Tinh."

The broadcast also said North Vietnamese "share" the U.S. "share" in the bombing of the bridge. It said the U.S. "share" in the bombing of the bridge was "a very serious blow" to the North Vietnamese.

In South Vietnam, North Vietnamese ground troops launched a fresh attack on the northern edge of the central highlands city of Kontum before dawn today, despite heavy pounding by line waves of American B-52 bombers during the night.

According to official figures, 28 North Vietnamese were killed in an attack Friday in the same area of Kontum and another 179 Communists died in an attack on an artillery base south of the city, which is 380 miles north of Saigon. Government losses were listed as 27 killed and five wounded in the two attacks.

Tank-led North Vietnamese troops fought through dense areas around the northern part of Kontum yesterday and some 500 North Vietnamese were killed.

—Turn to Page 2, Col. 4

Indy Winner Sets Record

INDIANAPOLIS — Mark Donohue took over the lead with just 20 miles to go and hung on to win the Indianapolis 500 Mile race in record time here yesterday before a crowd of more than 90,000.

See Sports, Section C

Editor's Report

Making History

By William Randolph Hearst Jr.

NEW YORK — Having to meet a rigid pre-Sunday deadline is especially tough this week since the one big story demanding comment is still breaking in Russia — but here goes anyway, despite the absence of final and definitive details.

It would be more than helpful, for example, to have an advance copy of the speech President Nixon is making today to the Russian people via Moscow television. This unprecedented leave-taking address no doubt will define just what he believes his historic mission has accomplished, and promises to accomplish in the future.

The major guideline which is missing for me at this writing is a full run-down on exact terms of the treaty to limit nuclear arms, the pact whose signature last Friday night had top priority on the President's agenda. All the same, it is this pact I mainly want to discuss.

As might be expected, the treaty — which has been under formation for 2½ difficult years at the so-called SALT talks in Vienna and Helsinki — is being unreservedly hailed by our liberals and One Worlders



W. R. Hearst Jr.

—Turn to Page 18, Col. 7

The Last Winner Take All?

By Sydney Kassen

Political Editor

California's vital presidential primary a week from Tuesday could mark the end of an era.

If so, never again would a single state—even the Nation's largest with upwards of 21 million eligible voters—offer so much to one man trying to prove his popularity and nothing but huge debts and swollen hopes to his rivals pursuing the same party's presidential nomination.

Should the system change, the California grisly bear would still loom large at national political conventions.

The California Supreme Court has rejected a legal test of the all-or-nothing primary. But the Legislative body is open.

Change seems certain. As State Democratic Chairman Charles Manatt says:

"If you believe in one man, one vote, then you can't believe in winner take all. You can't have it both ways."

"It's not democratic," says Democratic Northern California Chairman John Mario.

The winner of the June 6

War Over Narcotics?

Angels Jailed in 4 Killings

By Jerry Belcher

Five members of the notorious Hell's Angels motorcycle gang were jailed yesterday as suspects in a series of four murders in Oakland and San Leandro.

Lt. William Fugler of the Oakland Police Homicide Detail said they also may be tied in with the apparent murder of an unidentified woman whose body was found stuffed into the trunk of a car Friday in the Diamond District of Oakland.

Fugler theorized that all five slayings had to do with disputes over narcotics.

The murders, plus two others jailed on narcotics charges, were picked up in Oakland early yesterday in simultaneous raids on Hell's Angels pads.

Fugler said the raids also netted 28 rifles, shotguns and pistols, and about \$5000 worth of marijuana and suspected cocaine.

Best known of the suspects is Ralph (Sonny) Barker, 33,

former president of the Oakland chapter of the Hell's Angels.

Barker, Sergey C. Walton, 27, Anita Walton, 28, Benjamin Peggitt, 27, and Donald (Whitely) Smith were booked on suspicion of murder in the death of 29-year-old Severo W. Agero, whose fully clad body was found sitting in the upstairs bathroom of a \$50,000 home on Mountain Boulevard in Oakland last Sunday by firemen

—Turn to Page 18, Col. 1

Campaign '72

Humphrey's Hope: The first of three TV debates between Hubert H. Humphrey and George McGovern is scheduled tonight.

Page 6-A

McClintock Fight: Rep. Paul McClintock fights for survival — and in a newly conceived district.

Page 6-A

Proposition 9: A million-dollar battle of words over the environment.

Page 7-A

Alameda Battle: A study in contrasts between incumbent George Miller and challenger Furty Stark.

Page 7-A

San Francisco Sunday Examiner & Chronicle

News Section A	Page 18	Sunday Focus	Page 1
Continuing	Page 18	Cars	Page 1
Editorials	Page 18	Indo-China	Page 1
Newsroom	Page 18	Editorials	Page 1
Wright	Page 18	Books	Page 1
Sunday State Section B	Page 18	Questions	Page 1
Liney Arts	Page 18	Books	Page 1
Editorials	Page 18	Yes	Page 1
Shaping	Page 18	This World	Page 1
Weather	Page 18	Art	Page 2636
Sports Section C	Page 18	Books	Page 2637
Astoria	Page 18	Games	Page 2638
Tennis	Page 18	Music	Page 2639
Sports	Page 18	News Review	Page 517
Travel Section D	Page 18	State Book	Page 518
Public	Page 18	Ministerial	Page 519
Conservation	Page 18	Music-Drama	Page 520
Special Sections	Page 18	Public Pages	Page 521
Leg. Census, 2 parts, West Ad.	Page 18	Womens	Page 522
Editorials	Page 18	Teleview	Page 523
Rosenbaum	Page 18	Weekly Laps	Page 524

—From Page 1

278, are at stake in the New York primary June 20. But they could be split down the middle, sliced or fragmented. New York delegates run in Congressional districts. Some already are committed:

Other New York delegates have been detached from the H-starred presidential campaign of Sen. Edmund Muskie. They are being wooed by McGovern and Humphrey backers, along with other uncommitted convention votes.

New York for a thrust that could equal California's.

First Ballot
McGovern is striving for a

Clearly, Humphrey and McGovern are burning up more money, mileage, time, energy and talent in the California pivotal primary because their nomination seems to depend on it.

With 17 primaries behind him, McGovern today has slightly less than 500

pledged delegate votes. Alabama Gov. George Wallace is in second place with about 323, and Humphrey stands third with around 295.

As a write-in candidate, the wounded Wallace cannot win in California. But victory at the polls for Humphrey would jump the Minnesota Democrat ahead of McGovern.

Critics of winner-take-all include supporters of both leading contenders, also Sen. Alan Cranston.

They view all-for-one as contrary to the spirit of

Merio agrees. In a telephone interview from his Chico law office, the regional chairman observed:

"The final decision on the party's choice of a presidential nominee is made by the convention. So it's not fair for a candidate who showed some strength to take no votes to the convention."

If Sam Yorty, who is on next week's ballot, draws 5 percent of the vote, the maverick Los Angeles mayor

Because this primary is so crucial, the head-to-head Humphrey - McGovern contest will be the focus of the campaign.

Charges are flying that Humphrey was a World War II draft dodger (he was deferred for minor medical reasons) and that McGovern favors amnesty for all deserters (he would have each case judged on its merits).

only after all U.S. servicemen are out of Vietnam).
"If Humphrey could count on picking up 40 to 60 Cali-

formia delegates," a staff member says. "he would hold some money back for New York."

All-Out
Instead, Humphrey ap

The all-or-nothing rule applies to the California Republican ballot, too. Brad

dent Nixon is rated as a cinch to sweep up his home state's 96 convention votes over mere token opposition from conservative Ohio Con-

There's no widespread Republican move afoot for election code change.

That was the same year that California Democrats sent an orphan delegation to

Chicago, pledged to the assassinated Sen. Robert F. Kennedy, who had won the entire delegation with 46 percent of the primary vote.

Favorite Son

Reagan now is chairman of the California Committee to Elect the President

Four years ago he was not the first Governor to limit the voters' choice in the primary by running as a "favorite son."

Yet Reagan will be the last for the foreseeable future, if Proposition 4 is adopted in next week's election. This would provide for an open primary, similar to Oregon's where the ballot contains names of all reced-

This is apart from winning take all

If the Legislature doesn't start rewriting the law soon — giving California a proportional primary or a system of electing delegates by congressional districts — then the national parties or local groups are likely to urgently petition for a change.

[illegible]

EXHIBIT C

Progress-Bulletin

Serving Pomona Valley for 87 Years

Editor: Charles A. Richardson
Publisher: Charles A. Richardson
Advertising Manager: Charles A. Richardson
Circulation Manager: Charles A. Richardson
Local Operated Member: 88

EDITORIALS

Archie Bunker-- A Lovable Jerk

Is there any social significance in the fact that the second year in a row the comedy series "All in the Family" dominated television's Emmy Awards? According to some critics, the popularity of the show means that "bigotry has become respectable." We are all Archie Bunkers at heart but don't have the nerve to be as honest and vocal as he is. We may pretend -- or even believe -- that we are laughing at the always-disfellowshipped Archie, but in truth we are secretly identifying with him.

Couldn't it be that the show's popularity is nothing more than a reflection of its excellence? The show is simply funny. The writing is of a consistently high standard, treating what really are delicate and serious subjects with just the right touch of irony and, above all, humor.

Archie, surrounded by "dingbats" and meat-heads and "different" people who threaten his psychological security, evokes after week after week keeps coming back with more prejudices.

Maybe through him we experience a sort of catharsis that enables us to look at, and laugh at, those aspects of Archie Bunker that lie deep within ourselves.

Or maybe we just like to see the look on his face when, once again, he's proved wrong.

But what raises the series to its high level is the fact that Archie is more than a straw man set up to be knocked down to prove a point in each show. He is a human being we have grown to know and -- still -- the thought -- even to love.

Rather than making bigotry respectable, Archie Bunker has taught us that when we deny the humanness of the bigot or the racist we are just practicing a different form of bigotry.

Taking Primaries Out Of Smoke-Filled Room

Proposition 4 on the June primary ballot is designed to amend the state constitution to give voters a voice in choosing their party's presidential nominee.

At present, registered party voters from each party choose from statewide slates of delegates to represent them at their national convention.

Each slate is identified by the name of the candidate to whom it is pledged; or it may also designate itself as unpledged.

A slate may be headed by a leader of the political party who is called a "favorite son." He may not be a serious candidate, but because of the threat of an expensive and divisive primary fight, other candidates will not challenge such a slate.

Often the candidate ultimately chosen as the party's presidential candidate is not represented on the primary ballot.

Proposition 4 would require that the ballot contain the names of all recognized candidates for the office of President.

Persons not named by the Secretary of State may qualify for the ballot by circulating petitions as required by existing law. Persons placed on the ballot and wishing to be removed may withdraw by filing an affidavit that they are not a candidate for President.

By having all the names of all recognized candidates on the ballot, Californians have a chance to choose which candidate they wish to represent their party. An open primary will take the selection of a candidate out of the smoke-filled rooms and into the voters' hands where it belongs. We feel that this is a good move and recommend a yes vote for Proposition 4.

Cheers for No-Sniff

Glue-sniffing by youngsters is a serious addiction problem that has been overshadowed by the nation's concern about the increasing use of hard drugs. But the consequences of glue-sniffing can be just as tragic.

One company decided to do something about it. Model Products of Mount Clemens, Mich., announces that after much research it has perfected a safe, completely non-toxic plastic model cement that smells like fresh citrus fruit.

The product, appropriately named Notox, does not contain the toxic, hallucinogenic and addictive agents, toluene or nitrocellulose, which are the harmful ingredients in other glues or cements. Instead, Notox substitutes a harmless citrus derivative that is equally effective for cementing purposes.

Virginia H. Knauser, special assistant to the President for consumer affairs, calls the development of the non-toxic model glue "an example of technology with a conscience."

We hope to be able to make continuing reports of many other such examples in the future.

Thought for Today

If then you have been raised with Christ, seek the things that are above, where Christ is, seated at the right hand of God. Set your minds on things that are above, not on things that are on earth. -- Colossians 3:1, 2.

Ideals are like stars. You will not succeed in reaching them with your hands; but, like the seafaring man, you choose them as your guides, and, following them, you will reach your destiny. -- Carl Schurz, German-American statesman

Washington Window

Atmosphere Of Unreality About Summit

By STEWART HENSELY
UPI Diplomatic Reporter

WASHINGTON (UPI) — There is an atmosphere of unreality about the way arrangements for the Moscow summit proceed while Soviet vessels are prevented from leaving or entering Haiphong harbor by American mines.

The Kremlin condemns the American "blockade" as illegal and dangerous and demands it end. But Russia has made no effort to counter it and has not so much as hinted that it ever considered calling off the summit with President Nixon which begins Tuesday in Moscow.

The Moscow Union, contrary to its usual custom, did not publicize a protest it delivered last week over the killing of a Russian sailor aboard a Soviet vessel seriously damaged during an American air raid on Haiphong.

The secretary of the Russian protest made it possible for the United States to apologize without publicity or recriminations.

In the past, summit conferences have been aborted for lesser reasons.

Premier Nikita Khrushchev cancelled a 1960 summit with President Eisenhower because a U.S. spy plane violated Soviet air space. Now spy satellites gather far more data with impunity.

President John F. Kennedy, in August, 1961, quickly cancelled a proposed summit conference with Russian leaders to begin nuclear arms limitation talks when Soviet forces invaded Czechoslovakia.

The oddities of the current situation naturally have given rise to a variety of guesses in diplomatic and journalistic circles. These range from speculation by some that a "draft" on Vietnam has been struck between Moscow and Washington to the belief expressed by others that the Russians, despite U.S. "provocation" want to lure Nixon to Moscow to humiliate him in some way.

The visible evidence suggests there may be a grain of truth in the first guess, but none at all in the latter.

Presidential adviser Henry Kissinger is known to have told Soviet leaders in Moscow a couple of weeks ago that Nixon would be forced to take some stern action to counter the heavy new offensive he said this should not be permitted to jeopardize the summit.

High officials say privately there was no "agreement" but acknowledge that there may have been an "understanding."

On the face of it, Nixon appears to be in a strong position.

Please turn to B-5, Col. 5

YESTERDAYS

Looking backward through the files of this newspaper

18 Years Ago May 21, 1962
Big news came with the announcement that United Electronics, Inc. would move to Pomona.

29 Years Ago May 21, 1943
One hundred persons attended the annual meeting of the Women's Christian Temperance Union vice-presidential dinner and program which was held in the Christ First Methodist Church social hall.

46 Years Ago May 21, 1926
Dedication of the old Los Angeles County Fair grandstand was proceeding at full speed today preparatory to making alignments for the new 125,000 square foot steel structure to be built by the county.

38 Years Ago May 21, 1932
A checkup of the records of the Pomona High School senior class resulted in the selection of the five highest students in the class and the designation of the class officers for commencement. Lucile King was the honor of being valedictorian and Frances Doll, salutatorian.

66 Years Ago May 21, 1906
Hansler Bros. report the sale of an unusual number of gasoline stoves this year. The "New Process" stove seems to have overcome the popular prejudice that existed here for some time against gasoline stoves of all kinds.

"What Are You? Some Kind of a Nut?"



JACK ANDERSON

Secret Service Computer Didn't Have Bremer's Name on File

Immediately after Gov. George Wallace was gunned down at a suburban Maryland shopping center, the Secret Service whirled through its computerized file.

The name of the prime suspect, 21-year-old Arthur, Herman Bremer of Milwaukee, was not in the data bank of potential assassins.

The computer file constitutes the heart of the Secret Service's intelligence operation. Theoretically, the most basic descriptive information about a potential assassin can be fed into the machine, and a list of suspects will come pouring out.

A Secret Service spokesman has explained that the computer contains "a very large list of characteristics." These characteristics, he said, "may be addressed on an individual or combinatorial basis. So, if information of a general nature comes to our attention, we may search the file to synthesize and conduct it to the rather small number of suspects."

In other words, the data bank was supposed to pinpoint potential assassins by the trickles on his clocks or the moles on his nose.

But insiders tell us the computer operation doesn't work the way he explained it. The entire system is actually based on the premise that persons who write threatening letters, participate in demonstrations, make inflammatory "oral statements" or engage in "subversive" activities are most likely to attempt an assassination.

The names of such persons, as well as names from the FBI's National Crime Information Center, are dumped into the computer. The Secret Service's sophisticated data bank, in other words, is really nothing more than a perverted file of known or suspected nuts, criminals and subversives.

The President and other "protectors," as the Secret Service calls them, are not only followed but also posted on the federal level. The agents know his 141 registries, convention guest lists and similar matters, and then view the names back in Washington.

The President and other "protectors," as the Secret Service calls them, are not only followed but also posted on the federal level. The agents know his 141 registries, convention guest lists and similar matters, and then view the names back in Washington.

The President and other "protectors," as the Secret Service calls them, are not only followed but also posted on the federal level. The agents know his 141 registries, convention guest lists and similar matters, and then view the names back in Washington.

The President and other "protectors," as the Secret Service calls them, are not only followed but also posted on the federal level. The agents know his 141 registries, convention guest lists and similar matters, and then view the names back in Washington.

The President and other "protectors," as the Secret Service calls them, are not only followed but also posted on the federal level. The agents know his 141 registries, convention guest lists and similar matters, and then view the names back in Washington.

All names are checked against the computerized list. If the machine registers a "hit," the agents locate the potential assassin and initiate surveillance until they are satisfied there is no threat.

The Secret Service computer is also programmed to cough up names of "dangerous" suspects by geographical location. Only about 300 of the 180,000 names listed in the data bank, however, are considered dangerous enough to warrant regular surveillance.

The agency also has its computer set up to keep track of the whereabouts of its "protectors." At the push of a button, therefore, the Secret Service could have learned that George Wallace was in Laurel, Md., on May 13, or that Vice President Agnew was in Japan.

Humphrey vs. McGovern
Despite reports to the contrary, Sen. Hubert Humphrey, D-Minn., has explicitly ordered his campaign organization to ignore the Democratic presidential rival, Sen. George McGovern, D-S.D.

Indeed, Humphrey has suggested to his top campaign aides that McGovern might be his choice for vice president, should Humphrey win the Democratic presidential nomination.

The orders to lay off McGovern were given three days prior to published reports that Humphrey's California organization planned a bar-knockout attack on McGovern's positions on a variety of controversial issues, including abortion, amnesty and aid to paroled felons.

They came in a private memo, dated May 12, from the Senator in Jack Chastnut, his campaign manager.

"I must insist," Humphrey wrote, "that you issue instructions throughout the campaign organization that there are to be no attacks against George McGovern."

"He and I have been good friends for many years, and I am proud of his success. I helped bring him to Washington and we were next door neighbors."

"Married and I am terribly fond of him, Eleanor and their children. I will not let politics get in the way of this."

Humphrey makes clear, however, that he expects McGovern's positions on a number of issues to hurt the South Dakota senator as the public becomes more familiar with them.

"You can be sure that I have read the same materials that you have and that I know of the reasons George is getting as many votes as that many are vote for him don't know anything about his record or his statements."

"Enough will be written by the press about his early statements. There is no need for me personally or for us as a campaign to get involved in the attack."

Humphrey's memo notes that McGovern supported him in 1968. "He's a good man, and I will want his support again at the Miami convention and I will want the support as well of his voters."

"Furthermore," Humphrey says, "There are many people talking to me about him as a vice presidential candidate."

"I don't worry about growing old gracefully any more—these days, a person's lucky if he manages to grow old at all!"

J. K. (DOC) PEIRSOL

Gossip for Today

Today let's talk about women! It's still OK to separate the men from the boys but if you know what is good for you, just don't try to separate the women from the girls. Regardless of age, a girl is a girl, and don't you ever forget it.

No fooling! Where females are concerned, men just can't win. The Rochester Junior Chamber of Commerce did its best to keep the ladies happy, even admitting them to Junior Chamber membership. For that noble gesture in behalf of equality and anti-discrimination, the Rochester Jaycees chapter has been suspended from the national organization.

But where men have failed, technocracy may ultimately be the answer to a better understanding between the sexes. A new invention has just been announced which will undoubtedly help keep husbands from going stark raving mad and perhaps even save many a marriage. It's an adding and subtracting machine that can be fitted into a wife's checkbook.

BRUCE BLOSSAT

Humphrey All-Out To Bag California

Sen. Hubert Humphrey's strangely limited, high-risk presidential campaign strategy is puzzling some veteran, democratic politicians here in the West and around the nation.

Though aides in Sen. George McGovern still fear some kind of last-minute Humphrey effort in the May 23 Oregon primary, the Minnesota senator's schedule indicates heavy concentration on California from here on.

Ignoring Oregon
The rationale for ignoring Oregon and handing it to McGovern, is, of course, simply that the vote prize for victory in this primary is only 34 national convention delegates.

While some party leaders accept that rationale, most are astounded at Humphrey's seeming abandonment of a full-fledged campaign for the 278 delegate votes in New York (348 to be chosen in the year's last primary on June 30).

This really means that Humphrey is risking all his chips on the June 8 California test, where 271 votes go to one stroke to the winner of the statewide plurality.

This strategy contrasts notably with earlier Humphrey reasoning. There was a time when he talked of waiting for the early vote and plunging into the "late ones" — in which category he placed Oregon, California and New York.

The peril in this much more selective approach in May and June is obvious. He could do reasonably well in the quest for New Jersey's 189 delegate votes in a primary the same day as California but otherwise he does not seem to be building toward real backup strength in the event his California bid fails.

Here is the argument given by a top Humphrey manager for not making an all-out effort for New York's massive delegate haul.

"In New York, the candidate's names are not on the ballot. It is not a measure of popularity. If the names were on, we'd go in there with both hands and both feet."

New York's initial data do have a preference test, but can delegate candidates indicate their presidential choices on the ballot. But those

who are not on the ballot, it is not a measure of popularity. If the names were on, we'd go in there with both hands and both feet."

New York's initial data do have a preference test, but can delegate candidates indicate their presidential choices on the ballot. But those

who are not on the ballot, it is not a measure of popularity. If the names were on, we'd go in there with both hands and both feet."

New York's initial data do have a preference test, but can delegate candidates indicate their presidential choices on the ballot. But those

who are not on the ballot, it is not a measure of popularity. If the names were on, we'd go in there with both hands and both feet."

New York's initial data do have a preference test, but can delegate candidates indicate their presidential choices on the ballot. But those

who are not on the ballot, it is not a measure of popularity. If the names were on, we'd go in there with both hands and both feet."

New York's initial data do have a preference test, but can delegate candidates indicate their presidential choices on the ballot. But those

who are not on the ballot, it is not a measure of popularity. If the names were on, we'd go in there with both hands and both feet."

"I don't worry about growing old gracefully any more—these days, a person's lucky if he manages to grow old at all!"



EXHIBIT D

To give its readers the widest scope of information The Times prints the informed and necessary opinions of many of the nation's leading columnists. Their opinions are not necessarily those of The Times.

28—San Mateo

Friday, June 2, 1972

Cast a 'No' Vote on Proposition 4

Legislative Constitutional Amendment Proposition 4, to be decided by California voters next Tuesday, under the label of "Open Presidential Primary" is mischievous and unneeded. It would require the Legislature to provide for an open presidential primary election in which the presidential candidates on the California primary ballot would include the names of all such candidates who are found by the Secretary of State to be recognized candidates in California or elsewhere in the nation. Any candidate wishing to withdraw from the ballot would have to file an affidavit that he is not a candidate.

The result could be a lengthy list of names in a sort of "free-for-all" race as opposed to the present law which requires qualification by petition. Such a list could also overload voting machines already crowded to capacity.

Effect of the proposal gives the Secretary of State, himself a partisan elected office holder, the decision as to which names of candidates would be placed on the ballot automatically. Other

candidates not "recognized" by the Secretary of State would be required to circulate petitions, as now, to get on the ballot.

The "open primary" label is misleading since the ballot is not now closed to candidates who qualify.

In use this amendment would literally force all serious candidates to enter the California primary even if this were not their preferred campaign plan. The alternative is to declare themselves as non-candidates in California with possible destruction of their campaigns in other states.

The California primary is a late one, coming just a few weeks before national party conventions. If a candidate finds himself forced to run here he risks a defeat that would damage his chances at the convention even if he had the support of his party in other states.

The net result of this proposal is the endangering of the primary system on a national scale without procuring any special benefit to California voters. It is a bad measure and should be defeated. Vote "No" on Proposition 4.

Beware of Proposition 7

There are two major faults in State Ballot Proposition 7 that should warn the wary taxpayer to vote "No" on next Tuesday.

It is a Legislative Constitutional Amendment which would provide that the Legislature may prohibit the election of single-family dwellings for property tax purposes at any value greater than that which would reflect the use of the property site for single-family dwelling purposes.

The first major fault is that it would weaken the present California practice of assessing property for its best and most valuable use. It is a departure

from the Constitutional standard that all property be assessed uniformly according to the value which it would bring in the open market. It would serve as precedent for other schemes to obtain special classifications that favor a few taxpayers.

The second major fault is that whatever tax deductions this measure might bring to approximately five per cent of the single-family dwellings affected would have to be made by an increased tax load on the remaining 95 per cent of the taxpayers.

Proposition 7 is dangerous tinkering with the equitable tax structure. Vote "No."

The Public Voice

Editor, The Times:

We have several Democrats vying for delegates votes in a nominating caucus for the office of President of the U.S.A. As a registered Democrat and taxpayer, I am reluctant to vote for any of them, until one voices their opposition loud and clear, against violence in all forms, perpetrated upon our country and society, by a certain element in this country. If any of the candidates intend to resort to, or depend on the votes of the violent element, then our country is doomed.

The first order of business with top priority, is to get this country turned around on a sane and sound basis, without the copious expense of the Vietnam War, then the rest of the problems should be solved, easily.

One of the candidates takes a great deal about the economy of the country, and so one should be hungry. In his campaign speeches, he talks like it is the goose that laid the golden egg and has enough golden eggs to give to every man, woman and child. One aspect to the economy, are the law-abiding individuals here in the U.S., who insure the acts of the unmerciful injuries and killings of innocent people, including the bombings, property damage and stealing, are costing the taxpayers millions of dollars, whether it is real-estate or not. Eliminate these unnecessary expenses by more stringent laws and it, too, would help the economy.

Another issue this candidate proposes, are big cuts in the defense budget, and elimination of progress, while our country must not let any grass grow under their feet. If he is able to negotiate these plans, thousands and thousands of people, both black and white will be jobless. Along with the armed forces, defense corps, there are departments linked with them, such as civil service, aerospace, electronic firms, industries, not to forget the firms that rely on the purchasing power of these people.

The Times solicits letters from all its readers on all viewpoints. However, the editors reserve the right to edit or reject letters when they feel that the letters may be libelous, or in good taste or contain profanity, grammar, etc. All letters should be brief, meaning will not be changed. Letters should be primarily on issues and not on personalities.

Letter writers should identify themselves by name and address. Reasonable request for anonymity will be honored. All letters should be brief, not more than a page and one-half if typewritten, but preferably shorter.

A President elected in 1928, tried these same tactics and we had a depression and it was a mess, just being old enough to feel the repercussions. On the other hand, if this candidate's golden eggs mean more and bigger welfare, it should not be long before we are all on welfare, and where would the money come from? First working people pay the taxes for costs on welfare, or has he overlooked this fact?

These are just a few, but important facts that should be taken into consideration when people vote. Jumping on the winter's savings, not always the wisest. NAME WITHHELD, Belmont.

Editor, The Times: Your Editorial "The Incredible Concoction of Congressmen" on May 22, 1972 was ok, so true.

Several weeks ago I tried to make an appointment with him as my plans were to go to see my Senators and Congressman. Not even his office force was friendly. When asked where he was they reluctantly told me in a committee meeting. Upon asking if it was private or public, he was told that it was public. Again had to ask where it was, changing power of these people.



Now We're Getting Into the Marbles!

Washington Merry-Go-Round

Congressman Celler Helps a Conglomerate

By JACK ANDERSON

WASHINGTON — The venerable, 84-year-old dean of the House, Rep. Emanuel Celler, D-N.Y., has become a bit careless about promoting his pocketbook interests in Congress.

For 50 years, he has straddled the fence and switched nameplates to separate his law practice from his congressional actions. But this hasn't prevented him apparently from tending the cash register of a multimillion-dollar conglomerate on Capitol Hill.

The conglomerate, Fischbach and Moore, does electrical work for power plants, industrial facilities, office buildings and other installations. It has received government contracts for a variety of projects ranging from the FBI's vast new headquarters in Washington to anti-ballistic missiles in North Dakota.

Repeatedly, Celler has put his power and prestige on the line in favor of the firm that would benefit Fischbach and Moore. In promoting these projects, however, he hasn't mentioned that he has a financial stake in the company. He has served, off and on, as a director, and his law firm does legal work for the company.

There was a big breakthrough in the 1960s, for example, over the controversial \$20 million loan to Lockheed Corp. to build a nuclear generating plant at Buchanan, N.Y., and a hydroelectric plant at Cornwall, N.Y. Celler rose to the defense of Con Ed.

"The Cornell plant," he declared, "has been attacked as an invasion of the scenic beauty of the Hudson... I have grave doubts as to whether or not the beauty of the Hudson, D.V., has become a bit careless about promoting his pocketbook interests in Congress."

For those who opposed the nuclear plant, Celler stated: "These are the same skeptics who, in the fifteenth century, warned Columbus not to set out on his voyage to India which finally led him to America. These are the same skeptics who, in 1962, said the Brooklyn Bridge would fall down. These are the same skeptics that designated Kitty Hawk and flying machines, and these are the same skeptics who scoff at our efforts to reach the moon."

Celler omitted the fact that Con Ed had contracted with Fischbach and Moore to do the electrical work. In 1969, Celler helped rally a close House vote in favor of the anti-ballistic missile system.

The gamble is too great, the awesome risk too much to bear? If the ABM system is not constructed, he told the House gravely.

He reflected to mention that his favorite conglomerate would help with the construction.

Celler omitted the fact that Con Ed had contracted with Fischbach and Moore to do the electrical work. In 1969, Celler helped rally a close House vote in favor of the anti-ballistic missile system.

He reflected to mention that his favorite conglomerate would help with the construction.

Celler has voted for military contracts that included electrical contracts from Fischbach and Moore. As House Judiciary chairman, Celler also has jurisdiction over the FBI which, perhaps coincidentally, awarded Fischbach and Moore the electrical contract for the new J. Edgar Hoover Building.

All the while, Celler has put on a great show of abstinence. The gamble is too great, the awesome risk too much to bear? If the ABM system is not constructed, he told the House gravely.

Celler omitted the fact that Con Ed had contracted with Fischbach and Moore to do the electrical work. In 1969, Celler helped rally a close House vote in favor of the anti-ballistic missile system.

The gamble is too great, the awesome risk too much to bear? If the ABM system is not constructed, he told the House gravely.

He reflected to mention that his favorite conglomerate would help with the construction.

Celler omitted the fact that Con Ed had contracted with Fischbach and Moore to do the electrical work. In 1969, Celler helped rally a close House vote in favor of the anti-ballistic missile system.

He reflected to mention that his favorite conglomerate would help with the construction.

Celler omitted the fact that Con Ed had contracted with Fischbach and Moore to do the electrical work. In 1969, Celler helped rally a close House vote in favor of the anti-ballistic missile system.

He reflected to mention that his favorite conglomerate would help with the construction.

Celler omitted the fact that Con Ed had contracted with Fischbach and Moore to do the electrical work. In 1969, Celler helped rally a close House vote in favor of the anti-ballistic missile system.

He reflected to mention that his favorite conglomerate would help with the construction.

Celler omitted the fact that Con Ed had contracted with Fischbach and Moore to do the electrical work. In 1969, Celler helped rally a close House vote in favor of the anti-ballistic missile system.

Victor Riesel

A Gigantic Meat Steal

CHICAGO — There is a sprawling nation-wide meat-stealing operation headquartered here whose leaders methodically unleash fast-food restaurants and fast-food restaurants against all odds on all fronts—except the underworld of organized crime.

Now it happens that this union, the Amalgamated Meat Cutters and Butcher Workmen (AMCU-BW), is the parent union of a local allegedly tied up with Mafia chiefs since "Little Augie" Panno died a bullet-riddled big shot and Charles "Lucky" Luciano was not so lucky. Luciano and his followers launched this thing, according to the authorities.

And these same law and order men now estimate that the combination of this local, its biggest in the national union, and the underworld, raised the cost of meat to the people by almost \$200 million a year in just one section of the country.

All this in sworn testimony and documents in the hands of crusading local and Federal investigators. Mind you, the reference is to such cities as Boston, New York, Philadelphia and surrounding areas. This means the impoverished black and Puerto Rican ghettos of Newark, parts of New England, and some of the poorest proletarian waterfronts.

This is all brought to mind by reports that a grand jury, which has been probing the union and the meat industry for about a year under the direction of a Manhattan District Attorney's Racket Bureau chief, Al Scott, might soon bring in some indictments.

At the same time there comes reports that one of this nation's vice presidents, the good-looking, Boston-based Clifford Caldwell, returned recently from Hawaii and said he was "shocked and scared" by President Nixon's minthe-harbers speech.

It is Caldwell's privilege to be shocked and scared by the FBI which, perhaps coincidentally, awarded Fischbach and Moore the electrical contract for the new J. Edgar Hoover Building.

But it is strange that Caldwell isn't shocked and scared by reports that a grand jury, which has been probing the union and the meat industry for about a year under the direction of a Manhattan District Attorney's Racket Bureau chief, Al Scott, might soon bring in some indictments.

At the same time there comes reports that one of this nation's vice presidents, the good-looking, Boston-based Clifford Caldwell, returned recently from Hawaii and said he was "shocked and scared" by President Nixon's minthe-harbers speech.

It is Caldwell's privilege to be shocked and scared by the FBI which, perhaps coincidentally, awarded Fischbach and Moore the electrical contract for the new J. Edgar Hoover Building.

But it is strange that Caldwell isn't shocked and scared by reports that a grand jury, which has been probing the union and the meat industry for about a year under the direction of a Manhattan District Attorney's Racket Bureau chief, Al Scott, might soon bring in some indictments.

At the same time there comes reports that one of this nation's vice presidents, the good-looking, Boston-based Clifford Caldwell, returned recently from Hawaii and said he was "shocked and scared" by President Nixon's minthe-harbers speech.

It is Caldwell's privilege to be shocked and scared by the FBI which, perhaps coincidentally, awarded Fischbach and Moore the electrical contract for the new J. Edgar Hoover Building.

But it is strange that Caldwell isn't shocked and scared by reports that a grand jury, which has been probing the union and the meat industry for about a year under the direction of a Manhattan District Attorney's Racket Bureau chief, Al Scott, might soon bring in some indictments.

At the same time there comes reports that one of this nation's vice presidents, the good-looking, Boston-based Clifford Caldwell, returned recently from Hawaii and said he was "shocked and scared" by President Nixon's minthe-harbers speech.

It is Caldwell's privilege to be shocked and scared by the FBI which, perhaps coincidentally, awarded Fischbach and Moore the electrical contract for the new J. Edgar Hoover Building.

But it is strange that Caldwell isn't shocked and scared by reports that a grand jury, which has been probing the union and the meat industry for about a year under the direction of a Manhattan District Attorney's Racket Bureau chief, Al Scott, might soon bring in some indictments.

At the same time there comes reports that one of this nation's vice presidents, the good-looking, Boston-based Clifford Caldwell, returned recently from Hawaii and said he was "shocked and scared" by President Nixon's minthe-harbers speech.

It is Caldwell's privilege to be shocked and scared by the FBI which, perhaps coincidentally, awarded Fischbach and Moore the electrical contract for the new J. Edgar Hoover Building.

But it is strange that Caldwell isn't shocked and scared by reports that a grand jury, which has been probing the union and the meat industry for about a year under the direction of a Manhattan District Attorney's Racket Bureau chief, Al Scott, might soon bring in some indictments.

The equality which underlies the Moscow summit is enshrined in various ways. It takes the form of a framework of treaties and agreements, all of them envisaging continuing contact and cooperation. Hopefully, the two nations will learn better how to work together, what sensitivities to avoid, what strengths to utilize, what vocabularies to employ.

There can be many difficulties about this extraordinary structure of agreement is carried out. The most vital of all, the agreements to limit defensive and offensive nuclear missiles, would not have been possible a few years ago. The adamant Soviet refusal to permit any form of internal pressure to force a change in the status quo was impossible of enforcement.

Now, the reconnaissance satellites have a small indication of the openness policy which President Eisenhower sought and Chairman Khrushchev rejected in the 1950's. The spies in the sky, with other detection devices, have made discovery of treaty violation possible. What is happening in the laboratories is one thing, but the assembly and emplacement of these devices is now presumably fully decided.

The kind of knowledge the United States and the Soviet Union gather quite freely about each other has cut down on the ignorance which breeds fear, and the fear which breeds war. It is one of the major factors for peace in the world today.

The few days of the Moscow meetings have produced many examples of the two sides trying to understand each other and understand one another. The consensus is that the Soviets have been very hard on the Moscow summit and its professional ways. It astonishes the Moscow regulars to see a small indication of what may come about as the various treaties and agreements — on space, on health, on environmental issues — are slowly carried out. The compatibility and the contrasts can be seen in the light of a possibility of equality, there is much possibility of constructive building.

Copyright 1972 by The Christian Science Publishing Society

EXHIBIT E

ELECTION
SPECIAL

SAN JOSE BALLPARK DEFEATED

San Francisco Chronicle

THE LARGEST DAILY CIRCULATION IN NORTHERN CALIFORNIA

WEDNESDAY, JUNE 3, 1992

415-777-1111 35 CENTS

Feinstein and Boxer Win Easy Victory for Seymour on GOP Side — Clinton Clinches Demo Nomination

Herschensohn holds lead over Campbell

By Susan Vosschum
Chronicle Political Writer

Barbara Boxer and Dianne Feinstein made history last night, capturing the attention of the nation by becoming the first two women nominated simultaneously for the U.S. Senate in California.

While the two Bay Area Democrats easily won their races, Republican Bruce Herschensohn began pulling away from Tom Campbell in a suspenseful race where as many as 10 percent of the ballots remained uncounted. However, early this morning the Associated Press declared that Herschensohn had won the right to face Boxer for the six-year seat being vacated by Alan Cranston.

In the fourth contest, appointed Republican Senator John Seymour won handily over conservative Representative Bill Dannemeyer.

Whereas Feinstein's big win for the two-year seat had been expected, Boxer's thumping of Lieutenant Governor Leo McCarthy and Representative Mel Levine was not. The two women candidates' smashing victories all but overshadowed the tense contest between Campbell and Herschensohn for the long Senate seat and Seymour's easy victory for the short seat.

"The tide has been unleashed," said political analyst Mervin Field. "For those who expect California women to go to the Senate, the first hurdle has been cleared. Women are sweeping — but not in the traditional sense."

In the past year, sexual harassment, parental leave and abortion became dominant issues that defined not only the women's agenda but the agenda for the country.

The difference was perhaps best illustrated in the Campbell-Herschensohn race, in which the Peninsula congressman was pro-choice and the Los Angeles television commentator was anti-abortion. Pre-election polls showed that abortion played a key role in defining each candidate's support.

Kam Kuwata, Feinstein's campaign manager, said, "The message of today's election is that Californians are calling for change. Voters want people who aren't part of the old-boy network."

The remarkable victories by Feinstein and Boxer ensure two

Page A12 Col. 5



Dianne Feinstein told supporters, "Californians have sent the country a message — the status quo must go."



Senate candidate Barbara Boxer (left) celebrated with her husband, Stewart, and her daughter, Nicole.

San Jose Voters Reject Plan to Build Ballpark

By David A. Sylvester and Carl Nette
Chronicle Staff Writers

The ballot proposition to build a new ballpark for the Giants in San Jose was defeated yesterday.

It was the fourth straight election loss for Giants owner Bob Lurie, who has been trying for years to move the team out of San Francisco's Candlestick Park.

His latest try, Measure G on San Jose's ballot, would have financed a new stadium mostly through a utility tax. It was decisively defeated

yesterday, by about 10 percentage points.

Last night, in a concession speech before volunteers who had helped the campaign, Lurie praised the dedication of the workers and the Yes on G campaign. However, he said, "It didn't work."

There has been widespread speculation, some of it encouraged by the Giants, that the team will now move out of Northern California. But Lurie offered no indication.

Page A11 Col. 1

State Had Perot On Its Mind If Not on Ballots

50% would have voted for Texan, survey shows

By Sabin Russell
and Ken Hoover
Chronicle Staff Writers

His name was not on the primary ballot, and write-ins would not be counted, but that did not stop Ross Perot's most enthusiastic backers yesterday from expressing their support for him in a variety of ways.

"We've been replacing pages (of voting pamphlets), whitening-out problems and covering up names with masking tape," said Marin County Registrar of Voters Howard Hanson, who said Perot's name had been written in various places in virtually all 150 Marin County precincts.

At a polling station in San Francisco's Ingleside Terraces, about half of the 70 voters who had checked in by midday had Ross Perot on their mind. Dozens mentioned their support for him while chatting with poll workers, although only a few said they would write his name on the ballot after poll worker John McMickin told them that the write-in was a throw-away vote.

Not everyone was convinced,

Page A11 Col. 4

Bush wins in California — many say they favor Perot

By Jerry Roberts
Chronicle Political Editor

Setting up a wild, three-way presidential campaign, Bill Clinton clinched the Democratic nomination and President Bush completed an unbroken string of Republican primary victories yesterday amid widespread signs of bipartisan support for Ross Perot.

Arkansas Governor Clinton defeated party rival Jerry Brown in the California primary, hours after crossing the threshold of 2,145 Democratic National Convention delegates needed for his nomination with solid victories in five other states that voted yesterday.

With state turnout a very low 44 percent, yesterday's balloting capped a turbulent and unpredictable primary season shaped by a national recession, urban riots and coast-to-coast anger at the status quo — and the rhetoric of the candidates matched the political climate.

As the nation watched, the Democrat used a populist, outsider tone in a victory speech delivered to 2,000 cheering supporters at the Biltmore Hotel in Los Angeles.

"I am tired of seeing the people who work hard and play by the rules get the shaft," Clinton said, moments after California's polls closed. "We want to put the forces of the status quo and short-term greed on notice. The party is over, we're in for a change, and we want our country back."

Bush, who served up his renomination weeks ago, won six more token victories over commentator Pat Buchanan yesterday, giving him 38 wins out of 38 primary contests in 1992.

In a statement issued at the White House, the president promised to "break the Washington lawmaking gridlock and set a new course for the next American century."

"With an unbeaten string of primary victories behind us, I will continue to present my credentials and ideas to the American people," he said. "This November, we can break the Washington lawmaking gridlock and set a new course for the next American century."

Even in celebration, however, Clinton and Bush were haunted by the specter of Texas billionaire Perot, whose undeclared independent candidacy has captured the imagination of angry and disillusioned voters across the nation and sent him soaring ahead of the Republican and Democrat in pre-election polls.

CALIFORNIA PRIMARY RESULTS

★ PRESIDENT ★

56% of precincts reporting

DEMOCRATS

☒ Bill Clinton 48%

☐ Jerry Brown 39%

☐ Uncommitted/other 13%

REPUBLICANS

☒ George Bush 75%

☐ Pat Buchanan 25%

★ U.S. SENATE ★

69% of precincts reporting

2-year seat

DEMOCRATS

☒ Dianne Feinstein 57%

☐ Gray Davis 33%

☐ Joseph M. Alito 5%

REPUBLICANS

☒ John Seymour 52%

☐ Bill Dannemeyer 26%

☐ Bill Allen 9%

6-year seat

DEMOCRATS

☒ Barbara Boxer 43%

☐ Leo McCarthy 32%

☐ Mel Levine 22%

REPUBLICANS

☐ Bruce Herschensohn 38%

☐ Tom Campbell 36%

☐ Sonny Bono 17%

★ SANTA CLARA COUNTY BALLPARK ★

42% of precincts reporting

☐ Yes 45% ☐ No 55%

★ DIVIDE CALIFORNIA IN TWO MEASURES ★

(Requires two-thirds vote)

☐ Yes 52% ☐ No 48%

CHRONICLE GRAPHIC

sioned voters across the nation and sent him soaring ahead of the Republican and Democrat in pre-election polls.

Interviews conducted by the

Back Page C-1

THE TOP STORIES INSIDE

A WARNING TO U.S.

A top U.N. official yesterday warned the United States that by not signing a "biodiversity" treaty, it could deny its biotechnology companies easy access to the developing world's rich genetic resources. **PAGE A2**

HELP FOR AILING HEARTS

A new device, inspired by an amateur's use of a toilet plunger to revive his unconscious father, is showing promise as an improved CPR technique. **PAGE A13**

A BLOW TO EUROPEAN UNITY

Danish voters stalled the engine of European unification last night with a stunning rejection of the treaty that was to create a United States of Europe. The vote sent shock waves throughout the continent. **PAGE A17**



A plunger-like device may revolutionize CPR

INSIDE

CITYLINE: 24-Hour Information (415) 512-5000

SPORTS

Portland still ruefully recalls not taking Michael Jordan in the NBA draft. **Page B1**

BUSINESS

A lot of California lawmakers think airline food is good enough to be taxed. **Page C1**

PEOPLE

Build or destroy your own private city with one of the hottest computer games. **Page D3**

DATEBOOK

Paul Simon was secretly married during the weekend, columnist Liz Smith reports. **Page E1**

Books...	E4	Letters...	A18
Business...	C1	Lottery...	D4
Com...	D1	Movies...	E4
Classified...	D9	SF...	E4
Arts...	E4	Bay Area...	E3
Homes...	B9	Obituaries...	D6
Jobs...	C11	People...	D2
Auto...	C9	Real Estate...	E5
Genia...	D2	Sports...	B1
Greenwood...	D10	Sticks...	C6
Dishwash...	E1	TV...	E5
Editorial...	A18	Theater...	E2
Household...	D2	Weather...	C14



FOOD AND HOME SECTIONS TODAY

WEDNESDAY, JUNE 3, 1992

WORLD

SPACE DISCOVERY: Astronomers detected giant star-forming clusters created from the wreckage of two galaxies. Page A2

EARTH SUMMIT: A U.N. official warned the U.S. that it may lose out if it does not sign a "nuclear non-proliferation" pact. Page A2

EUROPEAN UNION: Danish voters rejected the treaty that was to create a United States of Europe. Page A17

GORBACHEV WARNER: Russian President Yeltsin warned his predecessor to quit criticizing the government. Page A17

HAITI LEADER: The military-backed government has picked a conservative politician to be prime minister of Haiti. Page A20

NATION

COMPROMISE POSSIBLE: President Bush signaled a willingness to negotiate on an emergency urban aid bill. Page A2

THOMAS AND PORN: Clarence Thomas frequented a hard-core pornography theater while at Yale, a book says. Page A2

SPECIAL PROSECUTOR: A federal judge joined the call for a special probe into President Bush's Iraq policies. Page A3

FLIA BY JORDAN: S.F. Mayor Jordan went before a U.S. Senate panel to seek more money to treat AIDS patients. Page A3

CHINA TRADE: President Bush decided to renew favorable trade status for China, despite widespread complaints. Page A20

TOP OF THE NEWS

CALIFORNIA

PRIMARY WINS: Bill Clinton and President Bush won California primaries said widespread support for Ross Perot. Page A1

STATE SENATE: Barbara Boxer, Dianne Feinstein and John Seymour easily won nominations for the U.S. Senate. Page A1

PEROT BACKERS: Ross Perot was on the minds of many state voters, although not on their ballots. Page A1

UC REGENTS: Demands for increased diversity on the UC board of regents has recently escalated. Page A15

BAY AREA

GIANTS STADIUM: The proposition to build a new ballpark for the Giants in San Jose was defeated by voters. Page A10/10AP

CASE: The dramatic story of a computer executive's harrowing kidnapping was disclosed for the first time. Page A15

BETTER OFF: A toilet plunger inspired a device that may revive heart attack victims more effectively. Page A15

GUNMAN SLAIN: Two Gilroy police officers were wounded by a gunman who was then shot to death by police. Page A15

CHINESE GANG: U.S. and local police searched 23 Bay Area homes and businesses in a probe of the Wo Hop To. Page A16

CAREER CRISIS: The area's sole employment agency serving disabled youth may close for lack of funds. Page D3

BUSINESS

KEY INDEX RISES: The government's main economic forecasting gauge showed surprising strength in April. Page C1

SPORTS

GIANTS LOSE, A'S WIN: The Giants lost to New York, 4-3, and fell into second place, while the A's beat Boston, 5-4. Page B1

TOP SEEDS ADVANCE: The top four women's seeds got to the semifinals of the French Open tennis tournament. Page B1

WEATHER

BAY AREA: Morning low clouds, otherwise sunny. Highs, 66-68. Lows, 50-62. Page C14

CLINTON CLINCHES NOMINATION — BUSH SWEEPS

From Page 1

television networks with voters as they left polling places confirmed Perot's growing strength in California and other states won by Bush and Clinton.

In California, for example, Perot finished first in a projected three-way match-up based on exit polls. Among Democratic voters, 35 percent said they would vote for Perot in a three-way race, while 49 percent favored Clinton. On the Republican side, 41 percent said they would back Perot and 47 percent said they would stick with the president.

'I Will Not Sink to That Level'

Perot, who is expected to announce his candidacy later this month, made himself available for television interviews in the state, and said his silent support came because "the American voters are concerned about keeping the American dream alive for the next generation."

"I won't engage in backtracking," he said. "I submit that the people deserve better than that. This whole process that two parties have established where they throw rocks together all day has nothing to do with selecting a good president for the people. I will not sink to that level. I will keep my effort on how we rebuild America."

Former California Governor



Arkansas Governor Bill Clinton addressed supporters in Los Angeles as his wife, Hillary, watched.

Jerry Brown, who for a time successfully carried the outsiders' banner now held by Perot, was defiant in a speech to about 300 supporters, refusing to endorse Clinton despite his rival's triumph and sweep of yesterday's primaries.

"We're still here," said Brown, as his supporters chanted his fa-

mous 800 number. "No matter what happens, we're not going away. We'll fight inside the convention, outside the convention... and even after the election."

The voting in California, Ohio, New Jersey, Alabama, New Mexico and Montana ended a campaign of

often dominated by political out-

lets and anti-incumbent fervor. It

seemed somewhat ironic that both

major parties' nominations were

captured by career politicians who

had spent years honing insider

skills of calculation and compro-

mise.

Survival Instead of Triumph

For both Bush and Clinton, the

primaries were more a matter of

survival than triumph.

The president appeared all but

unbeatable just a year ago, after

the U.S. victory in the war against

Iraq. But the painful recession,

coupled with outrage that accom-

panied his breaking of his 1988

campaign pledge not to raise taxes,

sent his support plummeting.

In recession-scarred New

Hampshire, Bush failed for the

message, first declaring that the

economy was "in free fall," then

telling voters, "Message 1: Care."

On the night of the primary, Bush

was stunned by Buchanan, who

captured nearly 40 percent of the

vote.

In the weeks that followed,

Bush frenetically campaigned

across the country. Eventually, in-

terior organization and fund-rais-

ing, coupled with Buchanan's ex-

trême right-wing positions, stood

his recommitment bid and he

dispatched the conservative com-

mentator.

Despite recent signs of an eco-

nomical recovery, long heralded by

Bush as the medicine needed to

cure his political ills, the presi-

dent's support remains low, as

Americans overwhelmingly com-

plain that the nation is on the

wrong track.

Clinton endured his own set of

primary miseries.

The 46-year-old governor de-

clared his candidacy at a time

when Bush's ratings were high and

better-known national Democrats

were forswearing a 1992 race.

STRONG SUPPORT FOR PEROT IN CALIFORNIA

From Page 1

however, one man grabbed a pen-
cil from McKinnin's desk before
bolting into a voting booth — for
the Democrats.

Elsewhere around the Bay Area, supporters of the Texas billion-
aire's still-undeclared candidacy
confided their choice to inter-
viewers for television networks, who
conducted surveys that showed
Perot would have won a three-way
race against President Bush and
Democratic candidate Bill Clinton
yesterday.

In a hypothetical three-way
race, based on the network's data,
Perot was the first choice of 50 per-
cent of those who voted yesterday,
ahead of Clinton with 30 percent,
Bush with 25 percent and 5 per-
cent for someone else.

"It's phenomenal," said Califor-
nia Poll director Mervin Field, who
did the projection. "It's like a revo-
lution in American politics."

While election workers strug-
gled against Perot-generated prob-
lems that slowed voting and politi-
cal professionals calculated his po-
litical impact, it was business as
usual for Perot's corps of volun-
teers in San Francisco, a neon sign
with his name and the lone star of
Texas on it marks the billionaire
businessman's headquarters.

The dozen volunteers inside re-
flect much of what Ross Perot's
unannounced campaign for the
presidency is all about: white, mid-
dle-class citizens disillusioned with
Bush, unimpressed by Clinton and
longing for a leader with a can-do
message.

"I'm a business person. He's a
business person. He talks my lan-
guage," said Linda Zacharin, a
commercial real estate broker who

helps run the local headquarters.

Supporters were telling callers
from McKinnin on the primary ball-
ot. "It will only slow things down,"
said Zacharin.

Michelle Londerback, who vot-
ed for Bush and Reagan in earlier
presidential elections, was station-
ed at a phone bank answering calls
from Perot supporters. "Ross Per-
ot is the kind of guy who knows
you can use computers to track
deadbeat fathers across the coun-
try. That's what I'm looking for,"
she said.

Another phone bank volun-
teer, Montezuma schoolteacher
Meighen Tideman, gasped when
she learned her that fellow volun-
teer had voted for Bush. She could
never stomach the Republicans
but admires Perot for his opposi-
tion to the Persian Gulf war.

Angry Over Pay Raises

"What really did it for me was
the great budget summit, fol-
lowed by the congressional pay
raise. The deficit is destroying this
country, but they gave themselves
a \$40,000 pay raise. Most people
don't make \$40,000 in a year," she
said.

Chris Leishman, a 25-year-old
who cut his political teeth working
for the Perot Revolt movement
that brought California the Propo-
sition 130 auto insurance reform
measure, is now working as a vol-
unteer office manager at Perot
headquarters.

As a student in Texas, he
watched Perot win a longshot cam-
paign to require that Texas high
school students have passing
grades to qualify to play on foot-
ball teams. "If you knew how in-
portant football was in Texas,

you'd have been impressed," he
said.

View in Castro Area

Across town at a polling station
at Castro and Market streets, a de-
cisively different view of Perot
holds sway. "I don't vote for big-
ot," said one gay voter, who was
outraged at Perot's statement in
an television interview that he
would not "knowingly" name a ho-
mosexual to a high-level cabinet
post.

"Write-ins for Perot? In this
neighborhood? Are you kidding?"
said precinct volunteer Luke Hum-
ford. The polling station was housed
at the headquarters of the Names
Project, the nonprofit group that
created the AIDS Quilt honoring
the tens of thousands who have
died of the disease. Voting
booths stood next to sewing
machines used to stitch the names
of the dead into the panels of the
quilt.

Peter Laska, who had just turned
in his vote for Jerry Brown, said
he was suspicious of Perot but had
been willing to give him the bene-
fit of the doubt until his statement
about gays in the cabinet. "Shot
that to hell," he said.

Desire for 'Maverick'

Perot supporters nevertheless
were evident throughout the Bay
Area yesterday. Charles Wiles,
who lives in the Rockridge area of
Oakland, said he will probably
vote for Perot in November "to get
a maverick in there."

"I'm a registered Republican,
and I did not vote for president be-
cause I didn't like either candi-
date," said Wiles, a 66-year-old re-
tired school teacher. "I just don't
believe the promises anyone's

CALIFORNIA VOTE FOR PRESIDENT

78 % of precincts reporting

	Vote	Per
DEMOCRAT	1,008,844	48
Bill Clinton	849,449	40
Jerry Brown	158,854	7
Paul Tsongas	46,024	2
George J. McCarthy	23,057	1
Bob Kerrey	17,259	1
Larry Agon	15,994	1
Lyndon H. LaRouche	15,994	1
REPUBLICAN	1,244,460	74
George Bush	447,855	26
Pat Buchanan	3,335	51
INDEPENDENT	2,138	32
John D. Edwards	1,116	17
LIBERTARIAN	27,254	100
Andre Marroux	10,945	100
AMERICAN INDEPENDENT	10,945	100
Howard Phillips	10,945	100

environment and education and
quickly emerged as the front-run-
ner in a field of relative unknowns.

Clinton Controversies

Weeks after the race began,
however, his campaign was rocked
by controversies over his charac-

ter. Questions of adultery, draft
dodging and personal finances,
each of which he answered in de-
tail, overshadowed his message of
middle-class tax relief, a new na-
tional health care system and ex-

Expanded education proposals.
Doubts about his character
plagued him throughout much of
the primary season. It was not un-
til after he won a pivotal victory in
the New York primary April 7 that
he began to refocus attention on
his platform and repair the politi-
cal damage he had sustained.

Last night, Clinton sounded
those themes again, as he declared
that "the election for America's fu-
ture begins tomorrow," attacked
what he called Bush's "visionless
leadership" and detailed proposals
on welfare reform, college tuition,
assistance, health care and other
issues.

"In the end, words have to give
way to deeds," Clinton said, asking
voters to support him because he
has a plan.

"I've got one opponent who
says he'll do whatever it takes to
hold on to the White House," he
said, as the crowd boomed. "And
there's another person running
who says he'll spend whatever it
takes. Let me tell you, winning this
election is not what's at stake here.
Winning the fight for America's
future is what's at stake here."

Before Bush and Clinton ulti-
mately prevailed, a series of chal-
lengers with insurgent messages
took turns sowing the seeds of
public unhappiness that broke over
the nation in 1992.

For a time it was Buchanan,
with his "America First" message
of protectionist trade and foreign
policy and unstinting criticism
of the incumbent party.

The Democrats had their own
anti-politician, former Massachu-
setts Senator Paul Tsongas. He
won the New Hampshire primary
by telling voters that he was "not
Santa Claus" and preaching a
tough-love message of no tax cuts
and sacrifice before derailling in
Southern primaries.

That left the outsiders' mantle
to Brown, who had the last laugh
on pundits who sneered at his in-
consistent 600-number appeals for
money and his angry screeds
against political corruption.

Running a guerrilla-style cam-
paign, Brown won well-timed vic-
tories in Maine and Colorado pri-
mary and, and seemingly overnight,
was suddenly the last Democrat
standing against Clinton. After a
stunning upset in the March 24
Connecticut primary, Brown car-
ried his insurgency into New York.
But after a brutal campaign, he
finished third, behind both Clin-
ton and Tsongas, who was no lon-
ger running.

Perot Filled the Vacuum

Into the vacuum rushed Perot,
who declared on the Larry King
television program that he would
launch an independent campaign
if volunteers put his name on the
ballot in 50 states.

Last night, it was Perot who
polled showed the unlikely
front-runner as the presidential
campaign entered its next phase.

Chronicle staff writers Suzanne Es-
pinosa, Ken Hoover and April Lench
contributed to this report.

FARLEY/Phil Frank

