

Testimony of
Mr. Samuel Wright

September 9, 2003

National Defense Committee
Rear Admiral (Ret.) James J. Carey--Chairman
Samuel F. Wright--Director, Military Voting Rights Project
1201 S. Court House Rd., #735 * Arlington, DC 22204
703-486-4247(voice) 703-486-1274(fax) * email: samwright50@yahoo.com

September 3, 2003

Senator John Cornyn
Chairman, Subcommittee on Constitution, Civil Rights and Property Rights
Senate Judiciary Committee
United States Senate
Dirksen 139
Washington, DC 20510

Attention: James C. Ho, Esq.
Chief Counsel

Re: Military absentee voting in special elections

Dear Senator Cornyn:

On September 11, 2001, United Flight 93 crashed in Pennsylvania. But for the heroic resistance of the passengers, the aircraft might very well have crashed into the Capitol, killing hundreds of members of the Senate and House of Representatives. I am informed that your subcommittee will conduct a hearing on such a tragic scenario on September 9.

As you know, our Constitution provides for Governors to appoint interim Senators in case of vacancy, but there is no provision for appointing members of the U.S. House of Representatives. The only way to fill a House vacancy is through a special election. I am informed that the September 9 hearing will consider the need for a constitutional amendment to provide for the appointment of U.S. Representatives if there are simultaneously a large number of vacancies.

I am also informed that some prominent House members are opposed to the appointment of House members, even in the nightmare scenario under consideration. The alternative proposal is to hold a series of "snap elections" with only three weeks notice, in order to fill the House vacancies expeditiously. I am writing to alert your subcommittee to the likelihood that such snap elections could not provide any realistic prospect for absentee voting, especially for the young men and women who serve in our Armed Forces. Accordingly, the National Defense Committee

favors your proposed constitutional amendment providing for gubernatorial appointments to be followed by special elections later, if feasible.

Absentee voting is difficult for military personnel even in biennial general elections. As a nation, we still conduct absentee voting essentially as we did in World War II, by shipping pieces of paper around the world by "snail mail." There are three time-consuming steps in the absentee voting process. The absentee ballot request must travel from the voter to the local election official, then the unmarked absentee ballot must travel from the election official to the voter. Finally, the marked ballot must travel from the voter back to the election official. Each of these steps can take weeks so long as the states require that the actual piece of paper travel by physical rather than electronic means. Each step introduces the opportunity for error or delay, resulting in disenfranchisement.

Last year, I wrote to each state's Chief State Election Official (CSEO), asking them to make every effort to facilitate absentee voting by the brave young men and women who are away from home and prepared to lay down their lives in defense of our country. I also included a questionnaire that I devised, showing the rate of disenfranchisement in military absentee voting. Attachment (1) is a copy of that questionnaire. I asked each CSEO to distribute my letter and questionnaire to local election officials in his or her state.

Ten CSEOs responded to my letter, but only Missouri Secretary of State Matt Blunt distributed my questionnaire and obtained and reported responses. Attachment (2) is a copy of Secretary Blunt's letter to me, dated August 21, 2003, with enclosures (including a chart showing data on a county-by-county basis).

Secretary Blunt distributed my questionnaire to the 116 local election jurisdictions in Missouri and obtained and reported data for 105 of those jurisdictions. (The City of St. Louis was one of the holdouts.) For military absentee voters in those 105 jurisdictions, in the 2002 general election, the disenfranchisement rate was 41.3%. Those 105 jurisdictions received 1,147 completed Federal Post-Card Applications (FPCAs) relating to the 2002 general election, and the local election officials mailed 1,136 absentee ballots in response to those applications. Two completed FPCAs were rejected as untimely, and nine more were rejected for procedural deficiencies. Of the 1,136 absentee ballots mailed in response to completed FPCAs, only 673 ballots came back on time and were counted. Fifty ballots came back on time but were rejected for procedural deficiencies, and another 81 ballots were rejected because they arrived after the deadline (November 5, 2002). Another 350 ballots never came back at all.

Absentee voting in a special congressional election is even more difficult, because the service member must be aware that his or her Representative has died or resigned and must submit an application for an absentee ballot. In the "snap election" scenario envisioned by some House members, military absentee voting (or probably any absentee voting) would be completely out of the realm of possibility.

Under a pilot project of the Department of Defense, perhaps as many as 100,000 military personnel will have the opportunity to vote by electronic means in the 2004 presidential election. That will be a big improvement over 2000, when only 84 military personnel voted electronically in the closest election in our nation's history, but that still means that the other 1.3 million active

duty service members must vote by traditional means, using snail mail. It will be many years, if ever, before the Department of Defense and state and local election officials will be ready to implement electronic absentee voting for a special congressional election held with just three weeks notice.

I hope that this information is useful to your subcommittee in its important deliberations. If you want more information from me or the National Defense Committee, please do not hesitate to call on me.

Sincerely,

Samuel F. Wright

Enclosures