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By Samuel F. Wright

The media and the Internet are crackling with anger about the Democrats' concerted challenge to military voting rights in Florida. This is not the first time that the Democrats have sought to overturn an election result by disenfranchising the brave young men and women who are away from home and prepared to lay down their lives in defense of our country.

In 1996, Texas Rural Legal Aid (TRLA) sought to overturn the election for the offices of sheriff and county commissioner of Val Verde County, Texas. The Democrats may have been emboldened to challenge military voting rights this year because they got away with it four years ago. If only Election Day votes were counted, Democrats won those two offices. When 800 military absentee ballots were counted, Republicans won. Using federal tax dollars (through the Legal Services Corporation), TRLA brought suit against the county and the successful candidates in the U.S. District Court for the Western District of Texas. TRLA contended that the 800 military personnel were not "real residents" of the county.

TRLA also sent out with the approval of the Clinton-appointed judge, a 24-page written deposition. The deposition inquired into each voter's intentions about where to live after leaving the military. In finding a "likelihood of success on the merits" and enjoining the installation of the two Republican victors, Judge Fred F. Biery relied on the completed questionnaires as evidence. His

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Military votes must count

Not the first time right is attacked

discussion of one particular voter (an Air Force officer then stationed in Colorado) is particularly instructive. Responding to the deposition, the officer stated that he intended to return to Texas when he retired from the Air Force, but probably to Austin or San Antonio rather than Val Verde County. Judge Biery held that this officer did not have the right to vote in Val Verde County because he had no present intent to return to that county. See *Casarez vs. Val Verde County*, 957 F. Supp. 847, 860 (W.D. Tex. 1997).

Judge Biery, TRLA and the Democratic Party of Texas all insisted that this case concerned only where military personnel should vote, not whether. However, if Judge Biery's conception of the law was correct, this officer (and many others like him) would have no right to vote anywhere. This officer's situation is quite typical for career military personnel. During an active duty career of 20 years or more, the service member is likely to change his or her mind many times about where to live upon retirement.

Ever since the Texas lawsuit was filed in 1996, Sens. Phil Gramm, Kay Bailey Hutchison, the late Paul Coverdell and others have been pushing for federal legislation to secure military voting rights. In each of the last four years, the Senate (but not the House) has included the proposed "Military Voting Rights Act" as part of the Senate version of the National Defense Authorization Act (NDAA). Citing "states' rights" concerns, Rep.

William M. Thomas, as chairman of the House Administration Committee, has refused to waive serial referral of the NDAA to his committee and refused to hold hearings in his committee.

The Founders clearly intended that national defense would be at the very core of the responsibility of the federal government, not the states. Our national government clearly has the authority and the responsibility to ensure that

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its military personnel are not disenfranchised by the circumstances of their service. Even the most ardent federalist should support federal legislation to ensure the effective enfranchisement of military personnel.

Recent results in Florida and elsewhere reaffirm that military personnel are among the most reliable supporters of the Republican Party. Election results also show that the two major parties are virtually equal

in strength. We simply cannot afford to allow ill-considered philosophical compunctions to stand in the way of enfranchising our party's most reliable voters.

In a 1952 letter to Congress, President Harry Truman wrote: "About 2,500,000 men and women in the Armed Forces are of voting age at the present time. Many of those in uniform are serving overseas, or in parts of the country distant from their homes. They are unable to return to their states either to register or to vote. Yet these men and women, who are serving their country and in many cases risking their lives, deserve above all others to exercise the right to vote in this election year. At a time when these young people are defending our country and its free institutions, the least we at home can do is to make sure that they are able to enjoy the rights they are being asked to fight to preserve."

I suggest that Truman's words are as true today as they were in 1952, and that those words should be addressed to today's Congress. We need federal legislation protecting members of the armed forces and their families from challenges to their voting rights based on alleged non-residence, the lack of postmarks and other spurious grounds. With the help of President-elect George W. Bush and the 107th Congress, America's sons and daughters who serve in our armed forces will not have to wait another half-century to enjoy a basic civil right that the rest of us take for granted.