

HON. RON PAUL OF TEXAS BEFORE THE US HOUSE OF REPRESENTATIVES June 2, 2004 The House of Representatives Must be Elected! Mr. Speaker, I rise in opposition to H.J.Res. 83, which amends the United States Constitution to allow appointed persons to fill vacancies in the House of Representatives in the event of an emergency. Since the Continuity of Government (COG) Commission first proposed altering our system of government by allowing appointed members to serve in this body. I, along with other members of Congress, journalists, academics, and policy experts, have expressed concerns that having appointed members serve in the House of Representatives is inconsistent with the House's historic function as the branch of Congress most directly accountable to the people.

Even with the direct election of Senators, the fact that members of the House of Representatives are elected every two years (while Senators run for statewide office every six years) means that members of the House are still more accountable to the people than members of any other part of the federal government. Appointed members of Congress simply cannot be truly representative. James Madison and Alexander Hamilton eloquently made this point in Federalist 52: "As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration should have an immediate dependence on, and an intimate sympathy with, the people. Frequent elections are unquestionably the only policy by which this dependence and sympathy can be effectually secured."

Mr. Speaker, there are those who say that the power of appointment is necessary in order to preserve checks and balances and thus prevent an abuse of executive power. Of course, I agree that it is very important to carefully guard our constitutional liberties in times of crisis, and that an over-centralization of power in the executive branch is one of the most serious dangers to that liberty. However, Mr. Speaker, during a time of crisis it is all the more important to have representatives accountable to the people making the laws. Otherwise, the citizenry has no check on the inevitable tendency of government to infringe on the people's liberties at such a time. I would remind my colleagues that the only reason we are reexamining provisions of the PATRIOT Act is because of public concerns that this Act gives up too much liberty for a phantom security. Appointed officials would not be as responsive to public concerns.

Supporters of this plan claim that the appointment power will be necessary in the event of an emergency, and that the appointed representatives will only serve for a limited time. However, the laws passed by these "temporary" representatives will be permanent.

Mr. Speaker, this country has faced the possibility of threats to the continuity of this body several times throughout our history, yet no one suggested removing the people's right to vote for members of the House of Representatives. For example, when the British attacked the city of Washington in the War of 1812, nobody suggested the states could not address the lack of a quorum in the House of Representatives though elections. During the Civil War, DC neighbor Virginia was actively involved in hostilities against the United States government- yet President Abraham Lincoln never suggested that non-elected persons serve in the House.

Adopting any of the proposals to deny the people the ability to choose their own representatives would let the terrorists know that they can succeed in altering our republican institutions. I hope all my colleagues who are considering supporting H.J.Res. 83 will question the wisdom of handing terrorists a victory over republican government.

The Constitution already provides the framework for Congress to function after a catastrophic event. Article I Section 2 grants the governors of the various states authority to hold special elections to fill vacancies in the House of Representatives. Article I Section 4 gives Congress the authority to designate the time, manner, and place of such special elections if states should fail to act expeditiously following a national emergency. As Hamilton explains in Federalist 59, the "time, place, and manner" clause was specifically designed to address the kind of extraordinary circumstances imagined by the supporters of H.J.Res. 83. Hamilton characterized authority over federal elections as shared between the states and Congress, with neither being able to control the process entirely.

Last month, this body fulfilled its constitutional duty by passing HR 2844, the Continuity of Representation Act. HR 2844 exercises Congress's power to regulate the time, place, and manner of elections by requiring the holding of special elections within 45 days after the Speaker or acting Speaker declares 100 or more members of the House have been killed. This proposal protects the people's right to choose their representatives at the time when such a right may be most important, while ensuring continuity of the legislative branch. In conclusion, I call upon my colleges to reject H.J.Res. 83, since it alters the Constitution to deny the people their right to elect their representatives at a time when having elected representation may be most crucial.