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ABSENTEE VOTING IN TIME OF WAR BY MEMBERS OF THE ARMED FORCES

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REQUEST FOR THE EARLY PASSAGE OF EITHER S. 1612 OR H. R. 3982

JANUARY 26, 1944.—Referred to the Committee on Election of President, Vice President, and Representatives in Congress, and ordered to be printed

To the Congress of the United States:

The American people are very much concerned over the fact that the vast majority of the 11,000,000 members of the armed forces of the United States are going to be deprived of their right to vote in the important national election this fall, unless the Congress promptly enacts adequate legislation. The men and women who are in the armed forces are rightfully indignant about it. They have left their homes and jobs and schools to meet and defeat the enemies who would destroy all our democratic institutions, including our right to vote. Our men cannot understand why the fact that they are fighting should disqualify them from voting.

It has been clear for some time that practical difficulties and the element of time make it virtually impossible for soldiers and sailors and marines spread all over the world to comply with the different voting laws of 48 States and that, unless something is done about it, they will be denied the right to vote. For example, the statutes of 4 of the States permit no absentee voting at all in general elections; 11 other States require registration in person in order to be able to vote; others permit absentee registration; but in some instances the procedure is so complicated, and the time is so limited, that soldiers and sailors in distant parts of the world cannot practically comply with the State requirements.

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But even if the registration requirements were met, there are still innumerable difficulties involved. For example Pvt. John Smith in Australia and his brother, Joe, who is on a destroyer off the coast of Italy, who think they are entitled to vote as well as to fight, find that they have to write in and ask the appropriate public official in their own State for absentee ballots. In every State those ballots cannot even be printed until after the primary elections—and in 14 States the primaries do not take place until September. In due time the ballots are printed—but they cannot always be sent out immediately, since in about half the States the absentee ballots cannot be mailed until 30 days or less before the election. Weeks after they are mailed out, they reach John Smith in Australia and Joe aboard his destroyer. Even assuming that John and Joe, in the meantime, have not been transferred to another station or ship, or have not been wounded and sent to hospital, it is doubtful whether the ballots will get back in time to be counted. If they have been moved, as is very likely, the ballots may not even reach them before election day.

In 14 States the procedure is even more time-consuming and cumbersome—for, instead of writing for an official ballot, John and Joe must first obtain special application forms for official ballots, which must be received and filled out and returned, before the ballots themselves are even mailed to them.

The Congress in September 1942 took cognizance of this intolerable situation facing millions of our citizens and passed a Federal absentee-balloting statute (Public Law 712). That law did three things: It provided for a Federal ballot to be prepared by the States; it abrogated State requirements for registration and poll-tax payments, insofar as they apply to members of the armed forces; and it required the War and Navy Departments to distribute postal cards to members of the armed forces with which they might request Federal absentee ballots from their State election officials.

The Federal law was a slight improvement, in that it provided absentee-voting procedures in those cases where there had been no action by the States. It also eliminated some of the strict procedural requirements contained in many of the State laws. The great defect in that statute, however, was that it still involved a time lag, so that the voter might not receive his ballot in time to return it to be counted. This defect is inherent, and cannot be avoided, in any statute under which the forwarding of ballots for distribution must wait until the candidates have been selected in the primaries, or which requires correspondence between the local election officials and soldiers and sailors who may be transferred or moved at any minute. If any proof were necessary to show how ineffective this Federal statute was, the fact is that out of 5,700,000 men in our armed forces at the time of the general elections of 1942, only 28,000 servicemen's votes were counted under the Federal statute.

The need for new legislation is evident if we are really sincere—and not merely rendering lip service to our soldiers and sailors.

By the 1944 elections there will be more than 5,000,000 Americans outside the limits of the United States in our armed forces and merchant marine. They, and the millions more who will be stationed within the United States waiting the day to join their comrades on the battle-fronts, will all be subject to frequent, rapid, and unpredictable transfer to other points outside and inside the United States. This is

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particularly true in the case of the Navy and merchant marine, components of which are at sea for weeks at a time and are constantly changing their ports of entry and debarkation.

Some people—I am sure with their tongues in their cheeks—say that the solution to this problem is simply that the respective States improve their own absentee-ballot machinery. In fact there is now pending before the House of Representatives a meaningless bill, passed by the Senate December 3, 1943, which presumes to meet this complicated and difficult situation by some futile language which—

> recommends to the several States the immediate enactment of appropriate legislation to enable each person absent from his place of residence and serving in the armed services of the United States * * * who is eligible to vote in any election district or precinct, to vote by absentee ballot in any general election held in his election district or precinct in time of war.

This "recommendation" is itself proof of the unworkability of existing State laws.

I consider such proposed legislation a fraud on the soldiers and sailors and marines now training and fighting for us and for our sacred rights. It is a fraud upon the American people. It would not enable any soldier to vote with any greater facility than was provided by Public Law 712, under which only a negligible number of soldiers' votes were cast.

This "recommendation" contained in this piece of legislation may be heeded by a few States but will not—in fact, cannot—be carried out by all the States. Two States would require a constitutional amendment in order to adopt a practical method of absentee voting—which is obviously impossible to do before the November elections. Only a handful of the States—nine—will have legislatures regularly in session this year; and, to date, only eight other States have called special sessions of their legislatures for this purpose.

Besides, the Secretary of War, who will have the bulk of the administrative responsibility for distributing and collecting the ballots, has stated:

> No procedure for offering the vote to servicemen can be effectively administered by the War and Navy Departments in time of war unless it is uniform and as simple as possible. Especially is this true with regard to the voting of persons outside the United States. * * * An Army engaged in waging war cannot accommodate that primary function to multiple differences in the requirements of the 48 States as to voting procedure.

I am convinced that even if all the States tried to carry out the "recommendations" contained in this bill, the most that could be accomplished practically would be to authorize the Army and Navy to distribute and collect ballots prepared by the States in response to post-card requests from servicemen—the very procedure set forth in Public Law 712, which has been such a failure.

What is needed is a complete change of machinery for absentee balloting, which will give the members of our armed forces and merchant marine all over the world an opportunity to cast their ballots without time-consuming correspondence and without waiting for each separate State to hold its primary, print its ballots, and send them out for voting.

The recent bills, proposed by Senators Green and Lucas and by Congressman Worley (S. 1612, H. R. 3982), seem to me to do this job. They set up proper and efficient machinery for absentee balloting.

These bills propose that blank ballots on special paper suitable for air delivery be sent by the War and Navy Departments to all the fronts and camps and stations out in the field, well in advance of election day. Immediately after primary elections are held, the names of the various candidates would be radioed or wired to the various military, naval, and merchant marine units throughout the world—on the high seas, on every front, and at every training station. The lists of candidates would then be made available to the voters, and the ballots would be distributed for marking in secrecy. But, even if the candidates' names had not been made available in an area in time to allow the ballots to be sent back to the United States, the voters could cast their votes by designating merely the name of the party of the candidates they desired to vote for. The voting date would be fixed in each area in sufficient time to get the ballots back home before election day, even if the actual names of the candidates had not been received in that particular area. The ballots would be collected and transmitted back to the United States by the quickest method of delivery, for forwarding to the appropriate State election officials.

Each State, under these bills, would determine for itself whether or not the voter is qualified to vote under the laws of his State. Each State would count the ballots in the same way in which it counts the other ballots that are cast in the State. The sole exceptions would be those conditions of registration and payment of poll tax which could not be satisfied because of the absence of a voter from his State of residence by reason of the war. Those conditions were abrogated by the Congress when it passed the existing Federal absentee-balloting law (Public Law 712).

There is nothing in such a proposed statute which violates the rights of the States. The Federal Government merely provides quick machinery for getting the ballots to the troops and back again. Certainly it does not violate States' rights any more than Public Law 712, which was passed by a substantial majority of the Congress in September 1942, and which specifically provided that no member of the armed forces had to register or pay a poll tax in order to vote in a Federal election. It is no more violative of States' rights than the Soldiers' and Sailors' Civil Relief Act, which the Congress passed in October 1940—more than a year before the war began.

It is true that these bills do not provide a simplified method of voting for State and local officials. The Congress has not the same authority to provide a simplified voting procedure for the thousands of State and local candidates that it has for Federal candidates. Nor would it be practicable to do so. The inclusion of all the State and local candidates would increase the size and weight of the ballot so as to make air delivery a physical impossibility. Furthermore, the transmission and distribution of names of the many thousands of State and local candidates throughout the United States to each voter in every military and naval unit and merchant ship raise insuperable difficulties.

Since these bills provide that if any voter wishes, he may use the procedure of his own State for absentee balloting, he is given, to the extent that there is any possibility of doing so, an opportunity to vote for State and local candidates. In fact, since they provide for a post-card system to implement the State laws, each voter is given at

least as great an opportunity to vote for State and local candidates as he would have under any legislation.

The inclusion of other groups of voters who are engaged abroad in war work of various kinds would be desirable. But as to members of our armed forces and merchant marine, I deem the legislation imperative.

Our millions of fighting men do not have any lobby or pressure group on Capitol Hill to see that justice is done for them. They are not ordinarily permitted to write their Congressman on pending legislation; nor do they put ads in the papers or stimulate editorial writers or columnists to make special appeals for them. It certainly would appear unnecessary that our soldiers and sailors and merchant marine have to make a special effort to retain their right to vote.

As their Commander in Chief, I am sure that I can express their wishes in this matter and their resentment against the discrimination which is being practiced against them.

The American people cannot believe that the Congress will permit those who are fighting for political freedom to be deprived of a voice in choosing the personnel of their own Federal Government.

I have been informed that it would be possible, under the rules of the Congress, for a soldiers' vote bill to be rejected or passed without any roll call, thus making it impossible for the voters of the country—military or civilian—to be able to determine just how their own Representative or Senator had voted on such a bill.

I have hesitated to say anything to the Congress on this matter for the simple reason that the making of these rules is solely within the discretion of the two Houses of the legislative branch of the Government. I realize that the Executive, as such, has nothing to do with the making or the enforcement of these rules. Nevertheless, there are times, I think, when the President can speak as an interested citizen.

I think that there would be widespread resentment on the part of the people of the Nation if they were unable to find out how their individual representatives had expressed themselves on this legislation—which goes to the root of the right of citizenship.

As I have said, this is solely a legislative matter but I think most Americans will agree with me that every Member of the two Houses of Congress ought to be willing in justice "to stand up and be counted."

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *January 26, 1944.*

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