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FEDERAL ELECTION REFORM

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HEARING
BEFORE THE
SUBCOMMITTEE ON
PRIVILEGES AND ELECTIONS
OF THE
COMMITTEE ON
RULES AND ADMINISTRATION
UNITED STATES SENATE
NINETIETH CONGRESS

SECOND SESSION

ON

S. 1881

A BILL TO ENABLE CITIZENS WHO CHANGE THEIR RESIDENCES TO VOTE IN PRESIDENTIAL ELECTIONS

AND

S. 2884

A BILL RELATING TO THE EXTENSION OF ABSENTEE REGISTRATION AND VOTING PROCEDURES TO CITIZENS TEMPORARILY RESIDING ABROAD

FEBRUARY 6, 1968

Printed for the use of the Committee on Rules and Administration



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FEDERAL ELECTION REFORM

TUESDAY, FEBRUARY 6, 1968

U.S. SENATE,
SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS
OF THE COMMITTEE ON RULES AND ADMINISTRATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 301, Old Senate Office Building, Senator Howard W. Cannon (chairman) presiding.

Present: Senators Cannon and Curtis.

Also present: James H. Duffy, chief counsel; Burkett Van Kirk, minority counsel; and Mary G. Daly, clerk, Subcommittee on Privileges and Elections.

Senator CANNON. The meeting will please come to order.

Hundreds of thousands of American citizens, both military and civilian, are serving their country or working for private industry in States other than the ones they call home, and outside the continental limits of the United States.

Through circumstances beyond their control, these citizens are very often deprived of their right to vote, even in Presidential elections, because of registration requirements and absentee voting regulations in the States which have the right, under the Constitution, to set their own voter qualifications.

In 1955, the Federal Voting Assistance Act, first introduced and supported by this subcommittee, became law, and during the intervening years, States have been encouraged to amend their voting procedures so as to comply with that act.

As a result, there are at this time only two States which do not yet permit absentee registration by members of the Armed Forces and others accompanying them. They are Louisiana and Texas.

Last year I introduced S. 1581, to further perfect absentee voting by service men and women. That bill was passed unanimously by the Senate and is now awaiting action by the House of Representatives.

Cooperation between the Federal Government and the States to extend the voting franchise to absentee military personnel has been outstanding, but absentee civilians have not been so fortunate.

If the State of residence of absentee civilians does not provide for absentee voting or, more particularly, does not provide for absentee registration, then all such persons are totally deprived of a basic right.

The question is: what method can best serve our absentee civilians in their efforts to vote—at least, in Federal elections?

The President submitted last year to the Congress a proposal entitled "The Residency Voting Act of 1967." I introduced that proposal on May 25, 1967, and it is now identified as Senate bill 1881.

The Residency Voting Act declares in part that—

No citizen of the United States who is otherwise qualified to vote in any election for the purpose, in whole or in part, of choosing electors for President and

Vice President of the United States shall be denied the right to vote for such electors in such election because of any requirement of residence or registration: *Provided*, That such citizen has resided in the State or political subdivision, with respect to which the requirement of residence applies, since the first day of September next preceding such election, and has complied with the requirements of registration to the extent that such requirements provide for registration after such date.

Another method would be to amend again the Federal Voting Assistance Act of 1955 so as to recommend to the several States that their absentee registration and voting procedures be extended to all citizens temporarily residing abroad.

I introduced a bill, S. 2884, to accomplish those ends, on January 29, 1968. It is identical to H.R. 8176, introduced in the House by Representative John Brademas.

S. 1881 is mandatory in nature and would force all States to adopt absentee registration and voting procedures, whereas S. 2884 and H.R. 8176 are recommendations only and not mandatory. S. 1881 addresses itself primarily to presidential elections, while S. 2884 would pertain to all elections.

Some States whose legislatures either will not meet in 1968 or will not be in session when either of these bills may be enacted into law would not be able to comply with the mandate in time for voting this year. This problem would, of course, still exist if S. 2884 were enacted into law.

Our purpose in continuing these hearings, first begun last June, is to determine what is the most feasible and efficient means of providing for absentee registration and voting—the provisions of S. 1881, or those of S. 2884 and H.R. 8176.

And at this point, without objection, I introduce for the record copies of S. 1881 and S. 2884.

(The texts of S. 1881 and S. 2884 are as follows:)

90TH CONGRESS
1ST SESSION

S. 1881

IN THE SENATE OF THE UNITED STATES

MAY 25, 1967

Mr. CANNON introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To enable citizens of the United States who change their residences to vote in presidential elections, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Residency Voting Act of 1967".

SEC. 2. The Congress hereby declares that to enhance the right under the fourteenth amendment to the Constitution of citizens who change their residences to enjoy equal access to the right to vote in the election for President and Vice President of the United States and to be free of discrimination in public services, it is necessary to prohibit the States from conditioning the right to vote on the fulfillment of unfair requirements of residence or registration.

SEC. 3. (a) No citizen of the United States who is otherwise qualified to vote in any election for the purpose, in whole or in part, of choosing electors for President and Vice President of the United States shall be denied the right to vote for such

electors in such election because of any requirement of residence or registration: *Provided*, That such citizen has resided in the State or political subdivision, with respect to which the requirement of residence applies, since the first day of September next preceding such election, and has complied with the requirements of registration to the extent that such requirements provide for registration after such date.

(b) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any election for the purpose, in whole or in part, of choosing electors for President and Vice President of the United States shall be denied the right to vote for such electors in such election because of any requirement of registration that does not include a provision for absentee registration.

SEC. 4. (a) In the exercise of the powers of the Congress under section 5 of the fourteenth amendment to the Constitution, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of residence or registration as a precondition to voting, as he may determine to be necessary to implement the purposes of this Act.

(b) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section, which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

SEC. 5. (a) Whenever any person has engaged, or there are reasonable grounds to believe that any person is about to engage, in any act or practice in violation of the rights conferred by section 3, the Attorney General is authorized to institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them to (1) permit persons benefitted by this Act to vote and (2) count such votes.

(b) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 6. (a) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in a State or political subdivision for the purpose of establishing his eligibility to register or vote under this Act, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting under this Act shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(b) Whoever shall deprive or attempt to deprive any person of any right secured by this Act shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

90TH CONGRESS
2D SESSION

S. 2884

IN THE SENATE OF THE UNITED STATES

JANUARY 29, 1968

Mr. CANNON introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Voting Assistance Act of 1955 so as to recommend to the several States that its absentee registration and voting procedures be extended to all citizens temporarily residing abroad

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Federal Voting Assistance

Act of 1955 (5 U.S.C. 2171) is hereby amended by striking out subsections (3) and (4) and inserting in lieu thereof a new subsection (3) as follows:

"(3) Citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them."

SEC. 2. Section 204(b) of the Act (5 U.S.C. 2184(b)), is hereby amended by striking out subparagraphs (3) c., d., e., and f. and inserting in lieu thereof new subparagraphs (3) c., d., and e. as follows:

"c. A citizen of the United States temporarily residing outside of the territorial limits of the United States and the District of Columbia

"d. A spouse or dependent of a person listed in (a) or (b) above

"e. A spouse or dependent residing with or accompanying a person described in (c) above".

Senator CANNON. The first witness today is Congressman John Brademas of Indiana.

Congressman Brademas, I know that you are vitally interested in guaranteeing the voting franchise to all citizens residing in this country or abroad.

On April 6, 1967, Congressman Brademas introduced H.R. 8176 in the House of Representatives.

Last June he graciously appeared before this subcommittee to testify on a variety of election-reform bills and gave valuable data as well as his personal views in support of that legislation.

Mr. Brademas, we welcome you here and are pleased to receive your advice. Please proceed with your testimony.

STATEMENT OF HON. JOHN BRADEMÁS, A REPRESENTATIVE IN CONGRESS FROM THE THIRD CONGRESSIONAL DISTRICT OF THE STATE OF INDIANA

Mr. BRADEMÁS. Mr. Chairman, and members of the subcommittee, it is a pleasure to appear before you again today to discuss S. 1881, the proposed Residency Voting Act, and S. 2884, which amends the Federal Voting Assistance Act of 1955. I am delighted that you have introduced S. 2884, Mr. Chairman. As you are aware, I have introduced an identical measure in the House as H.R. 8176, and 11 of my colleagues in the House, on both sides of the aisle and from every section of the country, have cosponsored such legislation.

The purpose of this hearing, as I understand it, is to consider both Senate bills—S. 1881 and S. 2884—early in this session of Congress to determine whether either bill merits prompt action in time for the 1968 national elections.

At this juncture, Mr. Chairman, in my own view, I believe S. 2884 deserves early and favorable action by this distinguished subcommittee and by Congress. On the other hand, I fear that S. 1881, for reasons I shall discuss, would fail of its intended purpose if enacted at this time.

When I last appeared before this committee, I expressed support for both bills and for their common purpose: to extend the right to vote to qualified citizens of the United States who have, as a practical matter, been denied the exercise of that right due to State-imposed restrictions which penalize American citizens who are temporarily living outside the jurisdiction in which they are eligible to vote.

I still support both bills and their objectives, Mr. Chairman. However, I believe that at this point S. 2884 has a better chance of passage and could do far more to achieve its purpose than S. 1881. Let me begin to explain why, by outlining the three principal differ-

ences between the two bills. Here I am addressing myself particularly to section 3(b) of S. 1881.

First: S. 1881 is mandatory, whereas S. 2884 is a recommendation to the States. This difference is crucial.

Section 3(b) of S. 1881, in effect, would require the States, wherever they permit absentee voting for electors for President and Vice President, to provide for absentee registration.

S. 2884, on the other hand, would amend the Federal Voting Assistance Act of 1955 to recommend—and I stress the word “recommend,” Mr. Chairman—to the States that they extend to their private citizens who are temporarily residing abroad, and to their families, the right to register and vote absentee.

Second: S. 1881 is limited to voting for electors for President and Vice President, whereas the recommendations of S. 2884 would extend to all elections—Federal, State, and local.

Third: S. 1881 would extend the vote to all citizens “otherwise qualified to vote by absentee ballot.” This bill, therefore, applies not only to the citizen temporarily residing abroad, but also to the citizen of one State who is temporarily living in another State.

The recommendations of S. 2884, on the other hand, are focused upon and limited to the citizen temporarily residing abroad, including “a spouse or dependent residing with or accompanying” him.

Let me focus chiefly, Mr. Chairman, on the differences between recommending and requiring State action, for that difference, as I have suggested, appears to be crucial. Whether or not there is a constitutional difference between a recommendation and a requirement, it is probable that legislation that would require a State to modify its election laws would be challenged in the courts—and a final resolution of such litigation might not be forthcoming until after the approaching national elections. This possibility could lead to confusion and perhaps even contests for electoral votes in those States where the outcome of the election is close.

In any event, many of our colleagues would, I suspect, harbor grave misgivings over a Federal requirement that the States provide for absentee registration wherever they permit absentee voting for electors for President and Vice President. I fear that such misgivings would make it difficult, if not impossible, to enact S. 1881 at this session, or at the least, would delay final passage until too late in the session to achieve its intended purpose.

Finally, Mr. Chairman, many State legislatures have now adjourned and will not convene again until after the 1968 national elections. However, if S. 1881 were enacted at this session to be applicable to this year’s presidential election, it is hard to see how many of the 21 States which still require personal registration by some absentee voters could comply with S. 1881 without calling special sessions of their legislatures. Moreover, in States where constitutional amendments would be necessary—Connecticut, for example—compliance would be impossible.

If the States should fail to act, the alternative contemplated by S. 1881 is litigation brought by the Department of Justice against the States or their election officials. This seems to me to be an unfortunate way to reach a desirable result, at least until the States have had a chance to comply.

Mr. Chairman, in contrast to S. 1881, S. 2884 would constitute a recommendation to the States. I hope, Mr. Chairman, that this distinguished subcommittee will report this bill out favorably and promptly with a view to early passage in time for those State legislatures which are still in session to consider its recommendations before the 1968 national elections.

Moreover, the recommendations provided by S. 2884 will continue to encourage States which still require registration in person to modify their election laws. It is to be hoped that those 21 States eventually will respond to the proposals of S. 2884. Additionally, it is to be hoped that those States which already permit absentee registration will adopt the simple, uniform Federal post card application procedure. These steps will enable private citizens who are temporarily residing abroad to register and vote more readily.

I might add, Mr. Chairman, that the Federal post card application procedure is now generally available to members of the Armed Forces, of the merchant marine, and to civilians employed overseas by the Federal Government, and their families. Moreover, this system has proven to be virtually fraud proof.

In the course of this committee's hearings on Federal election reform in the last session, Assistant Attorney General Vinson, speaking for the administration, referred to my H.R. 8176 and the companion bills sponsored by 11 of my colleagues in the House and testified that they "deserve favorable consideration." The American Civil Liberties Union endorsed H.R. 8176—your S. 2884, Mr. Chairman—as "logical, desirable, and completely noncontroversial."

I therefore urge this subcommittee to report S. 2884 favorably and soon with a view to early passage by Congress at this session. The enactment of S. 2884 would be a simple act of justice to many of our fellow citizens abroad who have been disenfranchised for too long. I hope that your committee, Mr. Chairman, will act favorably on S. 2884, for this bill is designed to safeguard for American citizens the most basic right of their democracy—the right to vote.

Senator CANNON. Thank you, Congressman Brademas.

Do you think that either of these bills would appreciably improve the voting possibilities of the great number of migratory laborers we have in the country today?

Mr. BRADEMAS. My candid judgment in a very practical way is "No," because I think that the problems that the migratory workers face are of such a complicated nature, such as housing, employment, education for the children, that it would only be with great effort and great difficulty. I think that you would find, as the result of either of these bills, that large numbers of migratory workers would, actually, not register to vote; or that they would not vote. That is just a practical politician's observation, because it is hard enough to get people who are not migratory workers to register to vote, even in the cities where they can be registered door to door, as in my own State.

Senator CANNON. In S. 1881 the time for registering to vote is set not later than September 1, prior to the date of the election. In your opinion, is that amount of time—that is, September and October—sufficient for the States to check the voters' qualifications in general? Do you think that is a long enough period of time for that purpose?

Mr. BRADEMAS. Off the top of my head, Mr. Chairman, I should think that it would be. I think that the best way to get a factual

answer to that very appropriate question is simply to take a look at the experience of the States where most registration is carried out in the last weeks of an election year. So, I think rather than my trying to give you an off-the-top-of-my-head response, I would suggest that it might be useful if we could get from the Department of Justice, or some other appropriate agency, some reading of the experience of the States.

Senator CANNON. Thank you.

Senator CURTIS.

Senator CURTIS. You represent an Indiana district, do you?

Mr. BRADEMAs. I try to, Senator CURTIS.

Senator CURTIS. What could Indiana do in extending the right to vote to people as mentioned, under either of these two bills, that it cannot do now?

Mr. BRADEMAs. I think that the passage of—well, I think, probably, nothing is the answer to that question, Senator CURTIS.

Senator CURTIS. If one of these bills were passed, would the citizen temporarily residing outside of the territorial limits of the United States be granted greater rights than the State would grant the citizens of the State of Indiana who are living in Florida?

Mr. BRADEMAs. No; no, sir.

Senator CURTIS. As you see it, what is the particular need for this?

Mr. BRADEMAs. I think that the particular need for this legislation, Senator CURTIS, is that many thousands—and the figures vary, but the estimates will range from 750,000 to 3 million of our fellow citizens—are effectively disenfranchised from voting for the people who represent them at every level of our Government, from the President of the United States to the U.S. Senators, the Representatives in Congress, the Governors, et cetera, because of the election laws in the several States. That is to say, that in those States where personal registration is required, a citizen of that State who may be a private citizen temporarily living abroad, working for IBM, for example, or a visiting professor at some university abroad, would be unable to vote for the people who represent him; whereas, in other States, where the States permit both absentee registration and absentee voting, those citizens are enabled to have an opportunity to cast their votes for the people they want to serve them at every level of government.

And the purpose of H.R. 8176 and its companion, S. 2884, is only to recommend to those States which do not permit absentee registration that they should amend their laws to enable their citizens to register absentee and to vote absentee; and in effect, to allow the citizens of those particular States the same exercise of the right that the citizens in the other States have that do not have personal registration laws.

Senator CURTIS. That recommendation would be just merely to refer the State to a statute of the United States?

Mr. BRADEMAs. Yes, sir.

Senator CURTIS. The members of the legislature may or may not know that.

Mr. BRADEMAs. Sir?

Senator CURTIS. The members of the legislature may or may not know that, even if it is passed—that that is the end of it.

Mr. BRADEMAs. That is correct. I think one of the thrusts of H.R. 8176 and S. 2884 is to inform them in that respect, of the fact which I think most of us in Congress are very much aware of, as an appropriate

concern on the part of our States, the idea of States rights and, therefore, we do not in the bills that I am addressing myself to, make this a mandatory requirement for the States, for some of the reasons I have set forth.

And it would still be up to a given State to act; such State as does not have legislation that would permit absentee registration and absentee voting, to allow such registration and voting, or not.

Senator CURTIS. How many States do not permit voting by mail?

Mr. BRADEMAS. I do not know how many States do not permit voting by mail, but it is my understanding that some 21 States do not permit registration by mail. I do not know—I do not have the figures off of the top of my head, but it is a substantial number of States wherein the right to vote absentee is, in effect, not an effective right, because the right to register absentee is not permitted.

Senator CURTIS. How about the State of Indiana?

Mr. BRADEMAS. You can do both in my State, sir.

Senator CURTIS. By mail?

Mr. BRADEMAS. Yes, sir.

Senator CURTIS. This bill is rather short, but it amends other sections. Does it do anything besides make a recommendation to let them register by mail?

Mr. BRADEMAS. No, sir.

Senator CURTIS. It does not recommend that they shorten the residence requirement?

Mr. BRADEMAS. No, sir. It would in no way impinge upon the power and the capacity of the States to determine their own requirements for voters.

Senator CURTIS. That is all. Thank you.

Mr. BRADEMAS. Thank you very much.

Senator CANNON. Thank you very much, Congressman Brademas, for appearing here today and giving us the benefit of your views.

Mr. BRADEMAS. Thank you, Mr. Chairman.

Senator CANNON. Our next witness is Mr. Stephen S. Jackson, who wears two hats:

(a) He is a special senior assistant to the Assistant Secretary of Defense for Manpower, and

(b) He is the vice coordinator of the Federal voting assistance program.

Mr. Jackson has worked closely with the legislatures of the States toward the fulfillment of the aims and objectives set forth in the Federal Voting Assistance Act. The success of that program and his work are attested to by the fact that almost unanimously the States have adopted registration and voting procedures benefiting members of the Armed Forces and others accompanying them overseas.

It is a pleasure to have you here, Mr. Jackson, and we feel sure that your testimony will be of great value to the subcommittee in resolving some of the problems attendant in extending voting privileges to absentee civilians.

Please proceed.

**STATEMENT OF STEPHEN S. JACKSON, DEPUTY COORDINATOR,
FEDERAL VOTING ASSISTANCE PROGRAM (DEFENSE)**

Mr. JACKSON. Mr. Chairman and members of the subcommittee, I wish to express my appreciation to Chairman Cannon for his invitation to me to meet with you this morning to discuss the Federal voting assistance program.

First, may I briefly explain my position in this program. The Federal Voting Assistance Act of 1955 provided that the President be authorized to designate, with provision for redelegation, the head of an executive department or agency to coordinate and facilitate such actions as may be required to discharge Federal responsibilities under this act.

The Presidential designee has from the beginning been the Secretary of Defense, who in turn has delegated this function to the incumbent of the office of Assistant Secretary of Defense for Manpower, and now Manpower and Reserve Affairs. I am the Special Assistant to the Assistant Secretary of this office and have been designated the Deputy Coordinator for the program.

Historically, the main thrust of programs such as the Federal voting assistance program has been in the interest of our military personnel, who are on active duty, who are serving their country. In 1942, out of 5 million men of voting age, less than 1 percent were able to vote.

To correct this situation, Congress enacted legislation providing for absentee voting for military personnel and certain civilians attached to the Armed Forces. Approximately—practically 30 percent—9 million servicemen of voting age voted in 1944. This result, of course, was in large measure due to the cooperation of the various States. However, when World War II ended, the program was terminated. Most State legislation had the language "in time of war," and less than 15 percent of 3½ million eligible military voted in 1952.

In 1955 the Congress enacted the Federal Voting Assistance Act, which is the basis for the Federal voting assistance program.

The 1955 Federal Voting Assistance Act was comprised of recommendations to the States to so modify their laws as to facilitate the opportunity of our military personnel—their dependents, too—and certain civilian employees stationed overseas to vote.

Promptly after the enactment of the Federal Voting Assistance Act, staff members of this program in the Defense Department met with the appropriate State officials to recommend and to assist them to amend their laws to meet the recommendations of the Federal act. Their efforts were successful in the vast majority of the States. These achievements present an outstanding example of the finest cooperation in this sensitive area of voting.

Every State has made some change in its voting laws to meet the recommendations of the Federal Voting Assistance Act. Every State, Commonwealth, and Territory now provides absentee voting privileges for military personnel. The great majority provides simplified process of absentee registration and voting for the Armed Forces and for their wives and dependents. Over one-half the States have met all of the recommendations of the Federal law of 1955. This, we feel, has been a major accomplishment.

It has been a continued example of the highest form of Federal-State cooperation in the sensitive area of election laws. There is still, however, much yet to be done.

While over half the States have met all of the recommendations of the Federal law, the other States have in various areas as yet declined to fully meet the recommendations of the Federal act. Two of the States still require personal registration, even for members of the Armed Forces. This requirement actually prevents a large number of our military personnel from voting.

Many members of our Armed Forces enter the service through induction or enlistment at the ages of 18, 19, or 20 and in most States are ineligible to vote at that age. When they do reach the age of 21, they are usually serving their country far from their homes, and are absolutely precluded from personal registration, because of their assignments.

The Federal voting assistance program as conducted in our office provides a course of information by radio, television, and military news media, graduated from January to September, having to do with the importance of voting in a democracy.

Each of the military departments has a well-defined, organized program whereby voting assistance officers are appointed in commands and units throughout the world. They are provided with the Federal post card application as well as the "Voting Information" pamphlet, which has the up-to-date laws of every State, Commonwealth, and Territory as it applied to members of the Armed Forces, their dependents who are eligible, and others, set forth in the Federal act.

We believe this is the most comprehensive document on this subject that is available anywhere. This is the pamphlet, the last one. The present one has been brought up to date. It is presently at the Government Printing Office. It is usually available earlier than this, the first of January, or the early part of January, at least, but my last inquiry indicated that because of the large backlog that the earliest date that they could contemplate furnishing it would be the 10th of February. They are, of course, anxious to assist, that up-to-date pamphlets be available, because it is the basis for the assistance rendered by our voting assistance officers.

When a man is interested, all he has to do is to tell them what his State is, and he has the up-to-date laws. We hope to have them by the 10th of February, at which time we will distribute them to all of the Members of Congress. We always send a copy of the Federal voting assistance program, which we are required to do under the law, to the President and Members of Congress.

In this report you will find further details on the points I have mentioned.

At this time, if I may, I will be pleased to attempt to answer any questions.

Senator CANNON. Thank you very much for appearing here today.

Are there any questions, Senator Curtis?

Senator CURTIS. What bill, or bills, are you supporting?

Mr. JACKSON. The invitation I have received from the Senator was to report on the program. I would be glad to give you a comment on the other bills. I was not designated at this time, as I understood it, to speak in favor or in opposition to any bill.

It so happens, however, that there is one bill that I may be very frank to say I am supporting. I originated the bill. It has been passed by the Senate, S. 1881, and is presently in the House.

Senator CANNON. I think that you misstated it. You mean S. 1581. S. 1880 was the election bill that the Senate passed last year and is now pending in the House. The House passed a slightly different form of the bill. S. 1881 is the bill that is here now, before us today, that would make it mandatory on the part of the States to provide voting facilities for people residing abroad.

We have one other bill, S. 2884, which is the one that simplifies the procedure, makes a recommendation to the States that they adopt such registration as necessary to permit the people to register and to vote absentee.

Mr. JACKSON. You are quite right. I would like to withdraw what I said previously.

The bill that I meant to refer to was S. 1581, which passed the Senate. And thankful to the good office of Senator Cannon and this committee, in its report it strongly recommends the passage of this bill. I contacted the chief clerk there before the close of the first session and was advised that they knew of no opposition to the bill, which they felt had the full endorsement of the Department of Defense and of the administration.

He stated that there were other problems before the committee that seemed to be somewhat difficult to resolve, and that the bill, probably, would not definitely be passed in the first session. He expected, however, that it would pass in this session.

The Voting Act of 1967, about which you properly corrected me, and this bill has the approval of the Defense Department; indeed, was part of the administration's proposal earlier, and I believe that the leadoff testimony was given by the Department of Justice's representative.

The bill that would recommend the same objective on a voluntary basis would amend the present Federal Voting Assistance Act so as to include all American citizens who are eligible to do so, and have been absent outside of the territorial limits of the country, not only to vote absentee, but to vote in accordance with the recommendations that have already been adopted and pursuant to the recommendations of the Federal Voting Assistance Act.

I have here an instruction manual which is an implementation of the law which the Department of Defense and our office are to follow. Under this 1025 instruction, V-E-2, it is to effect the necessary liaison between the Department of Defense and other executive departments and agencies, and between the Department of Defense and non-Federal agencies, groups, associations, et cetera, having a legitimate interest in the conduct of absentee voting.

Several months ago, Mr. Johnson spoke to me about this bill, and I told him that we were in favor of any bargaining of the base for voting—that, the more of which there is accomplished, the more solid the basis of our democracy—and if I could be of any assistance, I would be glad to render such, subject to administrative problems that might ensue.

We do not have a position on this bill. We were not asked for one. However, we have indicated intra-agency that we are in favor of the objectives of this bill and would not oppose it.

Senator CURTIS. Thank you.

Senator CANNON. Actually, you would be in favor, I presume, then, of the objectives of both bills, which, generally, are directed toward the same thing, one on a voluntary basis and the other on the mandatory basis?

Mr. JACKSON. Yes, sir.

Senator CANNON. And, considering the reluctance of some of the States to afford voting rights, even to servicemen, have you any opinion as to what you think your willingness would be to include civilians in both of these bills?

Mr. JACKSON. Well, I might say vicariously Mr. Johnson advises me that he has already persuaded, I think, four or five States to adopt the absentee registration proposition. Whether his persuasiveness would be otherwise, I do not know. All I know is that in our own program we have received very fine cooperation, as I have indicated, down the line.

I must say that I think it is more than a gesture. I assume that the interest and cooperative attitude has been motivated primarily by our boys in the service, and this is understandable, of course.

Senator CURTIS. If this Voting Assistance Act is extended to civilians living abroad, will there be an increase in Federal costs for administering it?

Mr. JACKSON. For administering the cost of the civilian employees abroad?

Senator CURTIS. Yes, sir.

Mr. JACKSON. We are already in the situation where we have the responsibility for that. Some administrative costs are involved in the cost of the Federal post card application.

Senator CURTIS. You only now send those to the military?

Mr. JACKSON. The individuals named in the act, the military, their dependents, members of religious, social, and other groups following these troops, and civilians overseas—they are entitled to use the Federal post card application under the act.

Senator CURTIS. How about employees of industrial concerns?

Mr. JACKSON. I am sorry, I did not understand you.

Senator CURTIS. How about the employees of industrial concerns; do you provide them with a free pamphlet and a postal card application?

Mr. JACKSON. No, sir.

Senator CURTIS. If this bill is enacted and the States respond to it, is it your understanding that you would be required to do that?

Mr. JACKSON. That is an open question. When I said, "procedurally," I had some reservations with regard to that, to Mr. Johnson. This is one of them. We now have the responsibility for the entire spread of the military throughout the world, their dependents who are accompanying them, and are eligible to vote, and about 18 or 19 agencies that have civilian employees overseas. What will be the administrative procedures with respect to 700,000 to 3½ million people spread throughout the world have not been resolved.

Senator CURTIS. That is all. Thank you.

Senator CANNON. Thank you very much, Mr. Jackson, for giving us the benefit of your views.

Mr. JACKSON. Thank you.

I am very much interested in Mr. Johnson's testimony. I will have to leave very shortly, because I broke away from an all-day meeting.

Senator CANNON. We have appreciated your appearance here. We know that the fact that you have another commitment is the occasion for your leaving.

Mr. JACKSON. Thank you.

Senator CANNON. Our next witness is Mr. Stuart H. Johnson, Jr., attorney at law, representing the League of American Citizens Residing Abroad.

Mr. Johnson has appeared before this committee on previous occasions. We are very happy to welcome you back and we ask you to express your views here today.

STATEMENT OF STUART H. JOHNSON, JR. (KING, ST. GEORGE & FRIEDMAN), 910 17TH STREET NW., WASHINGTON, D.C., APPEARING ON BEHALF OF THE LEAGUE OF AMERICAN CITIZENS RESIDING ABROAD

Mr. JOHNSON. Mr. Chairman and members of the subcommittee, I was going to simplify my statement, but in view of some of the questions which have been coming from the rostrum, I think I had better read through the entire statement, because I believe that this may answer some of the questions that you and Senator Curtis posed.

Let me say at the outset, sir, that the organization that I represent, the League of Americans Residing Abroad, is delighted that you have before you S. 2884, and to give you some idea of the nature of this organization, I have a memorandum that was prepared, a listing, in May of 1966, indicating the sort of business membership which we have in this organization.

There are about 500 businessmen listed from every part of the globe, and employed by companies which I am sure do business in every State in the Union. You might wish to have this in the committee's files.

Senator CANNON. That will be made a part of the files of the committee.

(The document referred to above will be found in the files of the subcommittee.)

Senator CANNON. You may proceed.

Mr. JOHNSON. Although the recent membership figures have not been furnished to me, I know that we have about 500 dues-paying members, and you can multiply that right away by 2, because most of these members are married and have their families with them.

As already stated, I represent the League of Americans Residing Abroad (LARA), a nonprofit organization of private American citizens residing abroad, which has long advocated this legislation.

While LARA's members come from all walks of life—business, the professions, teaching, the arts, and the churches—many of them form the nucleus of the American business community in the countries where they reside.

The roster of LARA's membership in American business abroad, as of May 31, 1966, is entitled, "A Company Is Known by the Men It Keeps." This list makes it clear, I think, that LARA speaks for American business leaders literally around the globe, who represent companies which do business in every State in the Union.

LARA's members have long protested their virtual disenfranchisement, particularly in those 21 States and the District of Columbia¹ which still require personal registration as a prerequisite for voting—absentee or otherwise—by their private citizens.

Even in those States which do permit absentee registration, Mr. Chairman, the procedures have sometimes proved to be so cumbersome that LARA members have found themselves disenfranchised as a practical matter. If those States were to adopt the simple, uniform, fraud-proof Federal post card application procedure for absentees registration and voting recommended by the Federal Voting Assistance Act of 1955, many more of their citizens abroad would be able to exercise their right to vote.

Accordingly, LARA has sought enactment of the proposal embodied in S. 2884 at both the Federal and the State level. LARA's members will be heartened and delighted, Mr. Chairman, to learn that you have introduced S. 2884, just as they were when Congressman Brandemas and 11 of his colleagues on both sides of the aisle and from every section of the country introduced identical legislation in the last session of the Congress.²

On the State level, the State of Washington has already enacted LARA's proposal, which is also under study by responsible officials, legislators, or commissions in Connecticut, Illinois, Maine, Maryland, Missouri, New Jersey and, I believe, New Mexico.

I might say, parenthetically, that we hope that some of the States that do require personal registration and have made no effort to follow through with the States that do not require personal registration will follow.

In addition, the Florida Legislature at its last session may have enacted a bill permitting absentee registration to vote for President and Vice President. In short, this proposal has had a hospitable reception on its merits in many States, and if recommended to them by the Congress, many more States can fairly be expected to give it favorable consideration.

S. 2884 would apply to all elections, whereas S. 1881 would be limited to voting for President and Vice President. On the other hand, S. 1881 would apply to all absentee voters, while S. 2884 would recommend to the States that they extend to their private citizens who are temporarily residing abroad the right to register and vote absentee by the FPCA procedure.

Senator Curtis, I think that this following passage is responsive to the question that you put: Why favor the citizen of Nevada or Nebraska who is living in Paris, whereas a citizen of Nevada or Nebraska who is working in California would not be included within the recommendations of this bill?

There are two reasons.

The reason for this distinction is both historical and practical. Historically, the Federal Voting Assistance Act of 1955 was enacted

¹ Those 21 States, so far as LARA has been able to determine, are: Alabama, Connecticut, Florida, Georgia, Illinois—in some municipalities—Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, and Virginia.

² The House cosponsors are Congressmen Brandemas (Democrat, Indiana) H.R. 8176, Corman (Democrat, California) H.R. 8489, Don Edwards (Democrat, California) H.R. 8931, Moorhead (Democrat, Pennsylvania) H.R. 9198, Scheuer (Democrat, New York) H.R. 9617, Frank Thompson, Jr. (Democrat, New Jersey) H.R. 9620, MacGregor (Republican, Minnesota) H.R. 9897, Farbstein (Democrat, New York) H.R. 10064, Mathias (Republican, Maryland) H.R. 10164, Resnick (Democrat, New York) H.R. 11245, Nedzi (Democrat, Michigan) H.R. 11402, and Gonzalez (Democrat, Texas) H.R. 14572.

before the tremendous expansion of American business, cultural, and other interests overseas could be clearly foreseen. Now, literally hundreds of thousands of our private citizens are temporarily residing abroad.

In that connection, Senator Curtis, the State Department's Passport Office advises that they have 750,000 registered citizens who are American citizens who are registered in embassies abroad. Those figures are understated, surely, because in many cases it is the head of the household who is listed and there is no reference to the members of that household.

They are engaged in activities important to our national interests, such as our balance of payments and our relations with other countries, and they face the continual necessity of interpreting America to the people they encounter from day to day in the countries where they reside.

Yet the Federal Voting Assistance Act unfortunately and, I believe, unintentionally discriminated against these private citizens, although its recommendations do include civilians employed abroad by the Federal Government, and their families. Thus, it recommends that the wife of a Federal civil servant abroad should be able to register and vote absentee by the FPCA procedure, but it fails to recommend that the wife of a businessman or a professor be accorded the same privilege.

Thus, S. 2884, Mr. Chairman, would remedy what in the light of 13 years' experience now appears a serious oversight.

The effect is to make it the right to register and vote by this absentee system by approved terms on the character of your employment, rather than the citizen, which is the normal touchstone of the right to vote.

Senator CURTIS. What States are compiled in this list?

Mr. JOHNSON. Twenty-one of them that are listed.

Senator CURTIS. I mean, what States are there where the wife of the Government employee votes, and the right to vote is denied to the wife of someone abroad working for a business outfit?

Mr. JOHNSON. I think that I can give you a preliminary answer from Mr. Jackson's testimony, that 26 States have adopted the recommendations of the Federal Voting Assistance Act in full. So that this would be the case in those 26 States.

There may be additional States which have partially adopted the recommendations of the Federal Voting Assistance Act and have extended them to the Federal civilian employees abroad.

Senator CURTIS. That was not my question. What States fail to grant to business people and their wives abroad the same rights that they have granted to nonmilitary Government employees abroad and their wives?

Mr. JOHNSON. Well, I can give you 21 of them right off the bat, Senator: Alabama, Connecticut. The footnote on page one of my statement covers that. Those are the States which do not allow absentee registration.

Senator CURTIS. No, no; does Alabama do something for Government employees abroad that they do not do for private employees abroad?

Mr. JOHNSON. I would have to sit down and look at the pamphlet and take into account those States that do not allow registration and—

Senator CURTIS. But they do not allow anybody—

Mr. JOHNSON. Some of them do, and some do not. I think that Connecticut has taken the requirements of the act whole hog, if I am not mistaken. I do not know about Connecticut, rather. I could go through this and furnish that information.

Senator CURTIS. I would like to know what States permit absentee voting to Government employees and their spouses, where that right is not granted to an individual in similar circumstances who works for a private business.

Mr. JOHNSON. I will furnish that information for the record.

Senator CURTIS. Very well.

(The information referred to above is as follows:)

KING, ST. GEORGE & FRIEDMAN,
Washington, D.C., February 7, 1968.

Re S. 2884.

Hon. HOWARD CANNON,
Chairman, Subcommittee on Privileges and Elections,
Old Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to the question put by Senator Curtis at the hearing yesterday morning, namely: which States permit absentee registration by civilians employed by the Federal Government and their families while denying that right to their private citizens temporarily residing abroad and their families?

It appears that fifteen States and the District of Columbia discriminate against their private citizens in this manner based on the survey of State election laws in "Voting Information 1966" published by the Department of Defense which has previously been furnished to the Subcommittee. Those States are: Connecticut, Florida, Georgia, Illinois (except Cook County, apparently), Kentucky, Louisiana (where private citizens cannot vote absentee), Maine, Maryland, Massachusetts, Missouri, Montana (absentee registration is restricted to citizens within the Continental limits of the United States), New Hampshire, New Jersey, Pennsylvania and South Carolina.

In addition, some other States make the FPCA procedure available to their civilian citizens employed abroad by the Armed Forces but either deny use of the FPCA procedures to other citizens abroad or deny such citizens the right to register absentee altogether.

As I testified, officials, legislators and commissions in several of the foregoing States have expressed serious interest in the proposal embodied in S. 2884, and the State of Washington has already enacted it. Other States may be expected to respond attentively to a recommendation of the Congress. I should add that the last session of the Florida legislature may have enacted a bill which would permit absentee registration of voters to choose electors for President and Vice-President.

Thank you again for your many courtesies in giving our proposal such a full and fair hearing. We are delighted that you have introduced S. 2884 and earnestly hope that it will be favorably reported by the Subcommittee to the full Committee and then to the Senate for early passage.

With best regards,
Respectfully,

STUART H. JOHNSON, Jr.

Mr. JOHNSON. But the point I am making remains, because I know that it is a valid point, because we have had complaints about this. You will find a bank official or his wife saying, "We cannot vote, and our friend, Joe Smith, down the street, who works for the Government, can vote by this process."

Senator CANNON. If I may interrupt, would not the 21 States that you list—that as to the 21 States that you list, while they may have complied with the Federal Voting Assistance Act, I think all but two States have complied there—for example, with registration, except for the registration provision, but yet these 21 States do not extend that right to other people living abroad; is that not the thrust of it?

Mr. JOHNSON. Yes, sir. But if I understood Senator Curtis' question, he wanted to know which one of these 21 States do that as to civilian personnel and their families abroad. Am I correct?

Senator CURTIS. And deny it—

Mr. JOHNSON. And deny it—

Senator CURTIS (continuing). To someone working for a private concern.

Mr. JOHNSON. Yes, sir; that is correct. There may be other States, Senator, where the Federal Voting Assistance Act has been adopted applying to those civil servants, where it might not be possible for a private citizen to register and vote absentee. I will have to check that to tell you about that.

I think this, also, is appropriate to the question that you asked, Senator Curtis.

Practically, Mr. Chairman, S. 2884 is appropriately limited to citizens who are temporarily residing abroad because it is seldom possible for them to return to their home States to register or vote in person. On the other hand, a citizen who is employed in a State away from his home is far more likely to have an opportunity and an occasion to return there when he could register or vote in person.

Obviously, his family could take care of his business in his home section.

Moreover, the citizen who goes abroad on a business or teaching assignment, for example, is usually so preoccupied with his new job, disposing of his home and obtaining a new one, taking his children out of school and placing them in a new one in a strange land, that he and his wife are likely to overlook their voter registration, even if the local election board happens to be open at the time for that purpose. Consequently, the citizen residing abroad is far more likely to be disenfranchised, and far less likely to be able to do anything about it.

As Congressman Brademas has pointed out, S. 2884 would be a recommendation to the States and not a command. It would not affect State requirements as to citizenship, residence, or domicile, and the States presumably would continue to exclude from their electorate expatriates who have lost all identification with their home States. Nevertheless, the experience cited above indicates that if S. 2884 were enacted, a great many States would respond to its recommendations and enfranchise many of their citizens who are presently unable to register and vote absentee.

Mr. Chairman, I am advised that in the 12 years that the Federal Voting Assistance Act of 1955 has been law—and my authority is Mr. Jackson—there has not been so much as an allegation that a single fraudulent ballot has been cast under the Federal post card application procedure which it recommends.

Under section 204(b) of that act, title 5, United States Code, section 2184(b), as it would be amended by H.R. 8176, the private citizen abroad who wishes to register by the Federal post card application procedure would have to swear before a consular officer qualified to administer oaths, to his name, home address, and that:

I am not requesting a ballot from any other State and am not voting in any other manner in this election, except by absentee process, and have not voted and do not intend to vote in this election at any other address.

The official administering the oath can readily ascertain the identity of the applicant from his or her name and passport photograph and can likewise ascertain his or her home address from the passport. It is, of course, a Federal offense to misuse a U.S. passport.

That brings us to another question that you asked, Senator Curtis, about how this would be administered in practice. The act permits the Secretary of Defense, with powerful redelegation to take over the basic administration of the act. So far as I can tell, Senator, all that it would take would be to distribute to the State Department or redistribution to the embassies and consulates around the world, a supply of these Federal post card applications.

The citizen would come in with his passport. The consular officer would identify both the man and his address from the passport, and would take his oath to the application form. I think it would be very simple, feasible, workable. And I think it has so proven in the case of the Armed Forces.

On behalf of the citizens LARA represents, Mr. Chairman, let me thank you again for introducing S. 2884 and for giving it this early consideration. I hope very much that the committee will report it favorably and soon to the Senate, so that the State legislatures which are still in session may have an opportunity to consider its recommendations before the approaching national elections.

Senator CANNON. Has your organization, as such, made any attempt specifically to go to the individual States, to the State officials, to try to get changes in the law?

Mr. JOHNSON. Yes, sir. I think I have indicated that we were able to persuade the State of Washington, when the legislature was still in session, to do so.

We have had considerable correspondence with the Florida Legislature, but I think it is still in session. I think they are going to pass a bill which, at least, allow absentee registration and voting in the elections for President and Vice President through a special procedure.

Connecticut would require a constitutional amendment, the Secretary of State advises me. And one for that purpose was introduced, but did not get through the last session of the legislature.

There is an election law study commission in the State of Illinois which has it under consideration.

Governor Curtis of the State of Maine has indicated that he will submit it to his next regular session of his legislature.

Some interest was expressed in Maryland, Missouri, and New Jersey. New Jersey has an election study commission involved.

And New Mexico, where they have a proposed amendment to the Constitution, and I understand that there have been some court decisions on whether or not this proposed constitutional amendment would be valid; and if so, would it allow the adoption of other proposals if adopted by the voters.

Senator CANNON. You will research that point that Senator Curtis raised?

Mr. JOHNSON. Yes, indeed.

Senator CURTIS. What does the word "temporarily" mean—how long is "temporarily"?

Mr. JOHNSON. Senator Curtis, that would be difficult to define. In other words, we are not intending in any way to tamper with the State requirements as to what they deem to be citizens for purposes

of their State laws. In other words, if they require residence for a full year, or 6 months, or 2 years, or 3 years, the State could continue to insist on those requirements.

Senator CURTIS. And as to the citizen who has gone abroad, temporarily residing outside of the territorial limits of the United States, how long is "temporarily"?

Mr. JOHNSON. Under the State law he has been abroad so long that he has lost his citizenship in that State. For example, just to give you one concrete example, the State of Ohio, I believe, requires its voters to reregister once every 3 years. A citizen of Ohio who goes abroad and stays for 2 years presumably would be able to vote in Ohio, but if he stays abroad for 3 years, and if they did not have absentee registration or re-registration procedures, I would presume that the Secretary of State of the State of Ohio would so indicate. He would lose his citizenship in Ohio and would not be deemed a citizen of Ohio for that purpose.

Senator CURTIS. I have one more question. Have any States turned down the concept of absentee registration?

Mr. JOHNSON. Twenty-one.

Senator CURTIS. I mean, have they turned down a recent request?

Mr. JOHNSON. Yes, sir. I have been in touch with a number of State legislatures. We have had our proposal before the legislature in Texas, but they adjourned without doing anything about it. I would say that a number of them have turned it down. I think it might be different if the Congress recommended otherwise.

Senator CURTIS. But your group has made an effort?

Mr. JOHNSON. Yes, sir. But, primarily, in those States, as I indicated, where personal registration is still required.

Senator CURTIS. This proposal refers to all elections?

Mr. JOHNSON. Yes, sir. A State, however, would be quite free to adopt not all of the recommendations as they have with the Federal Assistance Voting Act. They could limit it to Federal office and to the office of President and Vice President, if they chose to do so.

Senator CURTIS. I am not attempting to pass on who has sufficient information to vote or not to vote, but how about they individual who lives abroad for many years—what means do they have of informing themselves as to the issues?

Mr. JOHNSON. Sir, I think many of them are better informed than the people back here, because as I indicated in the course of my statement, a businessman doing business with people in France or Belgium or Holland or West Germany, with their counterparts, is continually in a position of explaining America's position, whether it is talking shop about the balance-of-payments regulations or whether he is defending himself from the latest threats of General de Gaulle.

Senator CURTIS. How does he know about a bond issue in my hometown, for instance—whether a bond issue in my hometown for a sewer is all right?

Mr. JOHNSON. You would be surprised how many of them get local newspapers. If he did not get them he probably would not know. But, again, if the State of Nebraska wanted to let these people vote for President and Vice President absentee, they would be able to do so.

Senator CURTIS. In some instances, a short residence requirement for people to vote for President and Vice President has been disqualified in the States from which they came. I am not an authority.

I was never registered as a voter until the second day of January, this year.

Mr. JOHNSON. You could vote yourself?

Senator CURTIS. Yes, I voted. And I did not have to register. I lived in a rural area. We did not have to register.

That is all. Thank you.

Senator CANNON. Thank you very much.

Mr. JOHNSON. Thank you.

Senator CANNON. That concludes our hearings. The record will be kept open for a period of 1 week for the submission of additional statements. Will you be able to get the answers for Senator Curtis by that time?

Mr. JOHNSON. Yes, sir. I will be glad to do so.

Senator CANNON. Thank you very much.

We stand adjourned.

(Whereupon, at 11:20 a.m., the subcommittee adjourned.)

(A statement for the record subsequently received by the subcommittee from the Bipartisan Committee on Absentee Voting is as follows:)

FEBRUARY 14, 1968.

STATEMENT OF THE BIPARTISAN COMMITTEE ON ABSENTEE VOTING, 12 RUE DE LA PAIX, PARIS, FRANCE

EVENTS LEADING TO FORMATION OF BIPARTISAN COMMITTEE

Everyone in the United States is probably under the impression that every adult American has the right to vote. There are, however, more than a few forgotten men and women. They are the hundreds of thousand of Americans living in all parts of the world, and particularly in Europe, who cannot meet the strict and varying requirements of 50 different state laws. Numbering perhaps one and a half million civilians, their population exceeds that of our least populated states.

There are still two states which have no absentee ballot whatever. About half the states make no provision for absentee registration. Worst of all, state residence requirements are so strictly interpreted that even if a citizen lived five or ten years or more in a state and went abroad to live for two or three years, intending to return, he would have little prospect of voting unless he resorted to some subterfuge of claiming some relative's home as his own or if he owned property in the state.

Of those states which provide for absentee voting, about half require notarization and the embassy is the only place in Paris authorized to perform this function. In the 1964 election only about 1200 ballots, including those of travelers, were notarized. Estimates range from 15,000 to 50,000 Americans living in France, so that despite the lack of statistics, it is clear that only a relative handful of Americans could vote. The situation in other countries was comparable.

It is said that voters have short memories, but most Americans living abroad remember clearly that it was the exceptional American—perhaps only one in ten—who could vote in the presidential election of 1964. Indeed, some of them felt so deeply that, Republicans and Democrats alike, they banded together more than three years ago to form the Bipartisan Committee on Absentee Voting with the single purpose of finding out what the difficulties were and proposing an effective system under which Americans living abroad could vote.

RESULTS OF THE BIPARTISAN COMMITTEE'S STUDY

The Committee made an extensive study of individual cases and the legal problems involved and corresponded with the attorneys general of the 50 states in a determined effort to understand fully the difficulties which face Americans abroad under existing election laws. Unhappily, its investigation completely confirmed the common experience of American civilians abroad that, as a practical and legal matter, they could not, in most cases, vote.

The Committee's study has revealed substantial disenfranchisement of American citizens resident abroad, either temporarily or permanently, through restrictive state registration and residence requirements.

This has been found to be true not only of civilians abroad in private occupations, but also of civilian government employees and military personnel abroad, since the recommendations contained in the Federal Voting Act of 1955 have not been implemented by many states.

A. State barriers

The inability of Americans abroad to vote arises from two principal difficulties. Only about half of the states have set up systems for permanent or absentee registration. This requirement excludes great numbers of people because it is the rare American who can afford a special trip home to register.

The second problem is that a variety of unreasonably restrictive state requirements have the effect of disqualifying voters who were eligible before they moved overseas. For example, in Ohio a voter living outside the state for less than three years is still eligible; however, he is disqualified if he stays outside the state for more than three years. Similar technical barriers to voting exist under the laws of other states.

People outside the military services have the impression that special legislation has eliminated all barriers to voting by the armed forces and government employees serving abroad. Official reports of the Defense Department disclose, however, that about half of the states have not fully complied with the recommendations of the Federal Voting Assistance Act of 1955, as amended. Two states, for example, make no provision at all for absentee voting.

B. The bipartisan committee's proposals

This situation is unreasonable in the last half of the 20th century. Today voting—at least in elections for President and Vice-President—should be a right and not a mere privilege of citizenship. Americans, wherever they live, are subject to the draft, to taxation and other obligations of citizenship. Although the number of Americans abroad is relatively small, they equal the population of some of America's smaller states. In a close election they might tip the balance, as the absentee vote carried California for Nixon in 1960. They should have a voice in the fateful decisions which confront their nation.

Last June the Administration sent to Congress the Residency Voting Act of 1967, which was primarily designed to prevent disenfranchisement of voters in presidential elections who moved from one state to another by limiting the residence requirement to 60 days. It also provides for absentee registration in states which have absentee voting (all but two).

This will meet the first of the problems of overseas Americans, but leaves sadly untouched the restrictive legislation in many states which disqualifies their citizens who live abroad. To meet this problem, the Committee submitted proposals to amend the bill to provide that if a voter had previously been eligible in a particular state and has not qualified to vote in another state, he remains eligible to vote even if he no longer maintains a place of abode in the state.

The amendment has three purposes:

1. It is a perfecting amendment to sub-section (a) because it enables any citizen to vote from the state of his previous abode when he has physically moved away but has not yet met the requirement in the bill of a minimum of sixty days residence in the state where he intends to live in the future. No problems of locus arise because the vote is only for President and Vice-President.
2. It is a perfecting amendment as it applies to members of the armed forces and their civilian dependents and government employees serving abroad. Only about one-half of the states have fully complied with the recommendations of Congress in the Federal Assistance Voting Act of 1955 which was designed to assure that these citizens could vote while serving abroad.
3. It would also apply to the many Americans who are abroad for professional, or business and other reasons and who no longer maintain an abode in states where they had previously been qualified to vote. This situation has disenfranchised most citizens abroad because of the complexity and rigidity of certain state requirements about "legal residence". With respect to this group, it is considered that state citizenship, like U.S. citizenship, is not lost or taken away except by some affirmative act repudiating or relinquishing state citizenship as, for example, by becoming a citizen of another state. This is rarely the case of most Americans abroad.

THE FEDERAL VOTING ASSISTANCE ACT

Following passage of the Federal Voting Assistance Act of 1955, people thought, for some years, that its recommendations to the states to amend their election laws would be an effective method of improving the opportunities to vote of military personnel and government employees. Indeed, many states took the necessary action but now, 13 years later, nearly half of them have still not complied fully with the federal recommendations.

If this is the case with the armed forces, whose political importance is enormous in the United States, there can be little expectation that, within the foreseeable future, state legislatures will make the necessary provision for mere civilians abroad.

S. 2884

The suggestion put forward in S. 2884 that the Federal Voting Assistance Act of 1955, for the armed forces and government employees overseas, should be extended to all Americans "temporarily" residing overseas is, in our view, entirely inadequate for five principal reasons:

First, the 1955 law simply makes recommendations to state legislatures about absentee voting. It does not provide any relief in itself.

Second, the restrictive work "temporarily" will be subject to fifty varying interpretations in the various states and is not likely to give the vote to many Americans living abroad.

Third, the Defense Department reported in 1964 that during the intervening years since 1955 only about half of the states have implemented the 1955 law. In the 1964 elections only about 40 per cent of those eligible to vote of the armed forces and government employees overseas actually voted as compared with approximately 60 per cent of eligible voters who generally vote in the United States.

Fourth, as Congressman Brademas, a sponsor of the same bill in the House, pointed out, "this proposal would impose no obligation upon any state and the states would be free to adopt or reject its recommendations". On its face, then, this proposal could scarcely be weaker as a method of insuring a fundamental right which, he said, "should depend on citizenship".

Fifth, it is evident that action by the many state legislatures could not be completed in time to provide any opportunity to vote in the 1968 election. This is clear when we recall that more than half of the state legislatures meet only every second year.

LEGAL CONCEPT BEHIND BIPARTISAN COMMITTEE'S PROPOSAL

Many other systems have been suggested from time to time to enable overseas Americans to vote—registration at embassies, eligibility in the District of Columbia, etc.—but the Bipartisan Committee thought that these were rather artificial in character and might create new problems of various kinds. Its proposals are less radical and involve no basic change in the existing state systems, while at the same time recognizing that, nowadays, large numbers of Americans live outside of what they regard as their "home" states or, indeed, outside the United States. Thus, just as the Supreme Court decided that a U.S. citizen (even naturalized) does not lose his citizenship by virtue of living abroad, similarly the Committee believes the citizens of any state retain their state citizenship, despite the fact they live abroad. They may not have thought about it, but they are citizens of states as well as of the United States. Like U.S. citizenship, unless affirmative action is taken to relinquish or repudiate state citizenship, they keep it.

Congress has authority, under the 14th Amendment to the Constitution, to remove unreasonable barriers to voting, in much the same way as the Voting Act of 1965 overrode such state requirements as literacy tests to assure Negroes and other minority groups the right to register and vote. There is surely no sensible reason why the minority of Americans living abroad should not have the same basic rights of citizenship as their fellow Americans at home.

Article 2 which gives states the right to fix qualifications for voters and the 14th Amendment which authorizes Congress to enact laws assuring all citizens equal protection of the laws may appear inconsistent. The reasonable reconciliation of these two points of the Constitution, as decided by the Supreme Court in *Katzenbach vs. Morgan*, is to require that the qualifications fixed by the states be reasonable and consistent with Congress' action under the 14th Amendment. We regard this reasoning as applicable to the fixing of residence requirements

and requirements for personal registration or voting in regard to Americans living abroad.

If a person moves from New Jersey to California, the reasonable implication is that he is giving up New Jersey citizenship and taking on California citizenship. But in moving outside of the country, it is not fair to assume that a person is giving up his citizenship in his state, because he is not taking on citizenship in another state. He should not be regarded lightly as giving up citizenship in his state unless it is clearly shown that he has the intention of doing so. Moving outside the country in itself should not be regarded as sufficient evidence and state laws should yield to a federal enactment establishing a more reasonable principle.

BROAD SUPPORT FOR BIPARTISAN COMMITTEE

To bring this question to public attention and demonstrate the deep concern they feel, American organizations abroad of every kind have passed resolutions urging that the program of the Bipartisan Committee be adopted. They include the American Chambers of Commerce in France and elsewhere, the American Legion, the Veterans of Foreign Wars, the American Clubs (men's and women's) in different cities, various university clubs, including Harvard and Yale, and the Federation of American Women's Clubs Overseas. In addition, the International Herald Tribune, America's most widely read newspaper abroad, has supported the Committee's program.

CONCLUSION

Although Americans living abroad may seem rather remote from the front lines of America's major political battles—Vietnam, slums and poverty—those who really know them understand that they are just as interested in such issues as their fellow citizens at home—maybe more so. The only effective way they can have their say is to be able to vote.

The Committee believes that all adult Americans, wherever they live and for whatever period, should, as citizens with obligations under the draft, taxation, etc., vote for President and Vice-President. There are in general no time limitations on diplomats or members of the armed forces which prevent them from voting, simply because they live abroad. Civilians should have the same privilege.

There is still time to establish an effective voting procedure for the 1968 election. The Bipartisan Committee urges the speedy passage of S. 1881 with the amendments it has above suggested.

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DAVID MCGOVERN,
Republican Vice-Chairman.
ALFRED E. DAVIDSON,
Democratic Co-Chairman.
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