

REPORTS

OF THE

MAJORITY AND MINORITY

OF THE

COMMITTEE ON ELECTIONS,

TO WHOM WAS REFERRED

ASSEMBLY BILL No. 190,

ENTITLED "AN ACT TO ENABLE QUALIFIED VOTERS OF THIS STATE IN THE MILITARY SERVICE OF THIS STATE, OR OF THE UNITED STATES, TO EXERCISE THE RIGHT OF SUFFRAGE," AND CONCURRENT RESOLUTIONS ON THE SAME SUBJECT.



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1864.

REPORTS
OF THE
MAJORITY AND MINORITY

COMMITTEE ON ELECTIONS

NJ STATE 190

TO WHOM REFERRED

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ASSEMBLY BILL NO. 190

ENTITLED "AN ACT TO ENABLE QUALIFIED VOTERS OF THIS STATE, IN THE MILITARY SERVICE OF THIS STATE, OR OF THE UNITED STATES, TO EXERCISE THE RIGHT OF SUFFRAGE, AND TO RECOMMEND THAT THE MOTION TO PRINT ONE THOUSAND COPIES FOR THE USE OF THE HOUSE BE ADOPTED."

THOMAS W. ALBERTSON
PRINTED AT DAYTON, OHIO, BY THE STATE OF OHIO, 1901

ASSEMBLY BILL NO. 190

The Committee on Printing, to whom was referred Assembly Bill No. 190, entitled "An act to enable qualified voters of this State, in the military service of this State, or of the United States, to exercise the right of suffrage," together with the majority and minority reports of the Committee on Elections, and the preamble and resolutions on the same subject, report the same with a recommendation that the motion to print one thousand copies for the use of the House be adopted.

All of which is respectfully submitted.

CHALKLEY ALBERTSON,
Chairman Printing Committee.

REPORTS ON ASSEMBLY BILL NO. 190

ASSEMBLY BILL NO. 190.

AN ACT to enable qualified voters of this State, in the Military Service of this State, or of the United States, to exercise the Right of Suffrage.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That whenever any of the qualified voters of this State shall be in the actual military service of this State, or of the United States, either as volunteers or drafted militiamen, and as such absent from the township or ward of their residence on the day appointed by law for holding any election authorized by the laws of this State, or of the United States, such qualified voters shall be entitled at such time to exercise the right of suffrage as fully as if they were present at their usual places of election, notwithstanding any provisions to the contrary in any Act or Acts now in force.

2. *And be it enacted*, That a poll shall be opened in each company, at the quarters of the captain, or other commanding officer thereof, and all electors belonging to such company, who shall be within two miles of such quarters on the day of election, shall vote at such poll, and at no other place; officers other than those of a company, and other voters detached and absent from their companies as aforesaid, may vote at such of the said polls as may be most convenient to them, and when there shall be twenty such voters at one place, distant more than two miles from any company poll, the electors present may open a poll at such place as they may select and certify in the poll book.

3. *And be it enacted*, That the polls shall be opened at ten o'clock in the morning and close at four in the afternoon.

4. *And be it enacted*, That at ten o'clock on the day of election, the electors present at each of the places aforesaid shall elect, viva voce, three persons present at the time, and having the qualifications of electors, for the judges of said election, and the judges so elected shall then appoint two of the persons present who shall be qualified to act as clerks of said election.

5. *And be it enacted*, That when such board of election shall have been organized, and before they shall receive any vote, it shall be

the duty of each of the judges of election to take an oath or affirmation, to be administered by a clerk of the board, in the following form:

"You do swear (or affirm, as the case may be,) that you will faithfully and impartially execute the duties required of you by law, as one of the judges of this election; that you will not knowingly receive, or assent to receive, the vote of any person who is not in all respects qualified and entitled to vote according to law; and that if any person shall offer his vote whom you shall suspect or believe not to be qualified or entitled to vote in this election, you will challenge his vote, and will refuse to receive the same unless you shall be made fully satisfied that he is legally entitled to vote therein."

6. *And be it enacted,* That when the judges of election shall have been sworn or affirmed, as provided in the preceding section of this Act, it shall be the duty of one of the said judges, in an open and public manner, to administer to the clerks of said board, and of such clerks to take, an oath or affirmation in the following form:

"You do swear (or affirm, as the case may be,) that you will faithfully and impartially execute the duties required of you by law, as clerk of this board."

7. *And be it enacted,* That the oaths or affirmations of such judges and clerks shall be entered in or attached to each poll book and signed by the parties respectively.

8. *And be it enacted,* That all elections shall be by ballot, and the judges of elections may, and upon the challenge of any voter shall, examine, under oath, the applicant to vote (which oath any of said judges may administer) in respect to his right to vote, and his qualifications to vote in the particular ward, township or county of this State in which he claims residence.

9. *And be it enacted,* That separate poll books shall be kept and separate returns made for the voters of each county; that the poll books shall name the company and regiment, or in case of detached voters, as above prescribed for, the post or hospital in which such election is held, and that the county and township, ward or election district of each voter shall be endorsed opposite his name on the poll books:

10. *And be it enacted,* That each ballot shall, in an open and public manner, on the day of election, between the hours mentioned in the third section of this Act, be delivered in person by the voter to one of the judges of election, and be by such judge deposited in the ballot-box; and in no case shall the ballot be taken by any such judge until the board of election shall have decided to receive the same; nor shall the ballot, in any case, be, by any such judge, opened, marked or examined, or permitted to be opened, marked or examined before the same shall be deposited in the ballot-box; and each ballot received shall be separately deposited in the ballot-box, and the clerks shall enter the name of the elector on the poll book of his county,

and number, ward or township and county of his residence at the time of his enlistment, pursuant to the form herein given.

11. *And be it enacted,* That at the close of the polls the poll books of each county shall be signed by the judges and attested by the clerks, the names counted, and the number set down at the foot of the poll books.

12. *And be it enacted,* That the board shall then proceed, in an open and public manner, to estimate and canvass the votes received, and shall complete the same without any unnecessary delay, and on completing the same, shall audibly and publicly announce the result thereof, particularly specifying the whole number of the names of the voters in the poll book, and the name of each person for whom any vote shall have been given for any office to be filled at such election, and the number of votes given for each person for the office designated for him by such votes.

13. *And be it enacted,* That such board shall proceed in canvassing and estimating the votes which shall have been received in the following manner: they shall open the ballot-box, the ballots contained therein shall then be taken singly and separately therefrom by one of the judges of election, to be appointed by the board for that purpose, and such judge shall, while each ballot shall remain in his hands, audibly and publicly read the same, and then, before taking another ballot from the box, shall deliver the same to another of such judges, to be appointed by such board for the purpose, to be examined and numbered, and such judge shall take and examine the same, and thereupon, if he shall be satisfied that the same has been correctly read, write on the back thereof the number of such ballot, in the order in which the same shall have been taken from the box, and then deliver the same to the other and remaining one of such judges to be examined and strung, and such judge shall take and examine the same, and if he shall be satisfied that the same has been correctly read, shall string the same in the order in which the same shall be taken from the box and numbered, by means of a needle and twine to be provided for that purpose; and the ballots shall be numbered from one onward. The clerk of such board, under the inspection and direction of such board, shall make a list of the names of all persons for whom one or more votes shall have been given, designating the office or offices for which such person shall be voted for, and as each ballot shall be read he shall write the figure 1 opposite the name of each person whose name shall be contained therein, as designated for any office; when all the votes which shall have been received shall have been read, examined, numbered and strung, as above directed, such board shall carefully and truly cast up the votes given for each person for any office to be filled at such election.

14. *And be it enacted,* That if, in canvassing and estimating the votes, the number of ballots shall be found to exceed the number of the names of the voters in the poll book, then the ballots which shall remain in the box, after canvassing and estimating as many ballots

as there are of such names, shall be deemed and taken to be null and of no effect; if two or more ballots shall be found rolled or folded together, or any ballot shall be wholly blank, or contain more names for any office than there are persons to be elected to fill such office, or have the name of any person thereon for whom no office is designated, or shall appear to the board to be fraudulent, then and in every such case the ballot shall be deemed and taken to be null and of no effect, and in every case in which a ballot shall be declared null and of no effect, the same shall not, in any respect, be canvassed, estimated or numbered, but one of the judges shall write thereon the word "rejected," and the same shall then be strung in the same manner in which the other ballots are directed to be strung, but on a different twine.

15. *And be it enacted*, That the following shall be the form of the poll books to be kept by the judges and clerks of election, filling in the blanks of the county and other blanks carefully:

Poll book of the election held on the Tuesday of
A. D. 18 , by the qualified electors of county, State of
New Jersey, in company of regiment county and
State of A. B. C. D., and E. F. being judges, and J.
K. and L. M. clerks of said election, were severally sworn.

Number and names of the electors, and their county, township, and ward of residence.

No. 1, A. B., , county of , township or ward of

It is hereby certified that the number of electors for county, New Jersey, at this election, amounts to.

A. B. }
C. D. } Judges of the Election.
E. F. }
J. K. }
L. M. } Clerks.

16. *And be it enacted*, That in all elections which shall be held under this act, the board of election shall make three statements of the result thereof for each county, and a certificate to the same, in the following or like form:

"A statement of the result of an election held in the county of , State of , on the day of , by the qualified voters of county, New Jersey, in the military service of the United States, in company of the regiment, for a member of the Senate, members of the General Assembly, &c., (naming all the offices voted for,) for said county. The whole number of names on the poll list is . The whole number of ballots rejected is . For member of the Senate, A. B. received votes. For member of the General Assembly, C. D. received votes. We do certify that the foregoing is a true, full, and correct statement of the result of the election above mentioned, and that the same exhibits the whole number

of the names on the poll book and of the ballots rejected, the name of each person for whom any vote or votes were given for any office designated for him in such vote or votes, and the number of votes given for each person for the office or offices so designated for him.

In witness whereof we have hereunto set our hands, respectively, this day of , in the year of our Lord one thousand eight hundred and

A. B. } Judges
C. D. } of
E. F. } Election.

Attest:

J. K. }
L. M. } Clerks."

Making under each head a list of the names of all the persons for whom any vote or votes were given for the office or offices designated therein, and stating opposite to the same, in words written at full length, as before directed, the number of votes given for each person for such office or offices, and filling up all other blanks in the form above given to conform to the facts of the case.

17. *And be it enacted*, That one copy of said statement and result of said election shall be placed in an envelope, sealed and endorsed by at least two of the judges of such election, and placed in the most convenient post office directed to the Secretary of State at Trenton, New Jersey, and one copy of said statement and result, together with the poll book for said county, and ballots shall be placed in an envelope, sealed and endorsed by at least two of said judges, and placed in the most convenient post-office, and sent by the next and different mail to the clerk of the Court of Common Pleas of the county for which such poll book was kept, and where said voters claim to be resident, and in case either return shall be lost, or shall not arrive at its destination within twenty days after such election, the Secretary of State, or clerk of the Court of Common Pleas of any county may certify and transmit to the other a copy of the statement and return in his office, which copy so certified shall have all the force and effect of an original return, and a third copy shall be retained by the presiding judge, until being duly notified of the reception of either or both of the other statements.

18. *And be it enacted*, That twenty days after any election held in this State under and by virtue of the laws of this State or of the United States, the board of canvassers for each county in this State shall meet at the places now designated by law in each county, and proceed to canvass and determine all votes cast by virtue of this act, and shall make a statement and return of the same in the manner now directed by law for the votes cast in any county, which said votes shall be added to, and counted with the votes cast in their counties respectively; shall make part of their return now authorized by law, which said votes and return so made shall have the same force and effect of the votes cast in the respective counties at any election au-

thorized by law; and for the space of twenty-five days all certificates of election shall be withheld for the purpose of receiving said votes; that all officers whose terms expire before the expiration of twenty-five days, shall hold over and exercise the duties of their office by virtue of this act, until their successors are qualified, and all officers elected shall have twenty-five days to qualify in addition to the time now allowed by law; that said elections shall be subject to contest in the manner now provided by law, and that the time for notice of contest shall, in case of returns of votes cast under this act, be extended to twenty days after the opening of said returns as is herein provided.

19. *And be it enacted*, That it shall be the duty of the Secretary of State to cause to be provided a sufficient number of copies of this act, and blank forms of poll books and statements of return, which with the necessary postage stamps to pay the postage on returns shall, at least four weeks before any such election be forwarded to the captain or commanding officer of each company, or in case of detached votes to the officer having charge of the post or hospital, who shall retain the same until the day of election, and then deliver them to the judges elected under the provisions of this act.

20. *And be it enacted*, That when any election under this act shall be held in this State, all the provisions of the general law in relation to fraud at elections and the punishment thereof, consistent with the provisions of this act, shall apply to all elections under this act.

21. *And be it enacted*, That no compensation shall be allowed to any judge or clerk under this act.

22. *And be it enacted*, That this act shall take effect immediately.

MAJORITY REPORT.

To the General Assembly.

The Committee on Elections to whom was referred Assembly Bill No. 190, beg leave to report the same, and to recommend that it do not pass.

The bill in substance provides, that on the day appointed for the holding of any election by the laws of this State, a poll shall be opened at the quarters of the captain of each company in the military service, wherever the company may then happen to be, and that all electors belonging to such company, who may be within two miles of the poll on that day, may vote at such poll; that detached men may vote at any poll they may deem most convenient, and that men stationed at posts or hospitals may vote at the same wherever situated. The object of the bill is expressed in the first and second sections, and the remaining twenty sections relate entirely to the manner of conducting the proposed elections. The avowed purpose of the act is to authorize persons to vote for civil officers at places outside the county of their residence, and indeed outside of the boundaries of the State. The bill is in direct conflict with the Constitution of New Jersey, and therefore it should not pass.

The clause of our Constitution which relates to the right of suffrage will be found in the second article of that instrument. The language is as follows, viz.: "Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State one year, and of the county in which he claims his vote, five months next before the election, shall be entitled to vote, &c." This clause is intended to express and does distinctly express two essential requisites to the enjoyment of the right of suffrage; first, the qualifications to constitute a legal voter; and second, the place where qualified voters may exercise the right. The words clearly imply that every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State one year, and also a resident of some county of this State for five months next preceding the election, is a legal voter in such county; and that if he claim his vote in that county he may vote there. But if he claims his vote in any other place than within the county where he has so resided, he is not a legal voter in that other place. This is the only construc-

tion that can be given, if words are regarded in their common and accepted signification, which is the true rule of interpretation in such cases.

But we are not left in doubt on this subject, for the construction we have given is supported by judicial decisions. The language of the Constitution of Pennsylvania in respect to the right of suffrage, so far as regards the place for its exercise, is almost identical with, and of the same import as that used in the Constitution of New Jersey; the only difference being that in one case, the offer to vote is required to be in an election district of the State; and in the other the claim to vote (which is a personal offer and demand,) must be in a county of the State. In May, 1862, the question of the Constitutionality of a then recent act of the Legislature of Pennsylvania attempting to legalize voting outside the limits of the State, came before the Supreme Court of that Commonwealth. The distinguished and able jurists who composed that court, belonging to different political parties, concurred in deciding that the act was in direct conflict with the Constitution, and therefore was null and void. The people of Pennsylvania acquiesced in that decision, founded as it was upon reasoning that could not be refuted. No attempt to procure a reversal has been made, and they who are anxious for such a law, are now engaged in trying to effect an amendment of the Constitution, because they know that such action must precede any further attempt to legislate upon the subject. The Judges of the Supreme Courts of Connecticut and New Hampshire, in considering the question, have cited and unanimously approved the Pennsylvania decision. The action of these Judges is especially deserving mention, as proving the adherence of the judiciary of those States to constitutional law, in these days of party excitement, notwithstanding they entertained the same political views as the Legislatures that passed the acts submitted to their decision. In reporting the New Hampshire case, the editor of the Law Register, very properly and justly remarks: "We desire to be fully understood as not objecting to any civil right or privilege being conceded to our volunteer soldiery, which can be done consistently with principle, and with existing constitutional restrictions. But we do object to breaking down all law, and all principle, and all constitutional restrictions, in a wild rush of blind enthusiasm on behalf of the Army or the Navy, or the Cabinet, or the President." So long as the judiciary shall refuse to overturn constitutional provisions, and will declare the law as it is without regard to partizan clamor of any kind, so long will there remain hope for the perpetuity of our institutions. But if Courts or Legislatures shall disregard the plain directions of the Constitution, with the hope of serving a temporary selfish purpose, they will inflict a serious blow upon our form of government.

It having been shown that the plain and explicit language of the Constitution requires every voter to exercise the right of suffrage in

some county *within the State*, and that the courts have so decided, it follows that the Legislature cannot make this bill a law.

But it may be contended that, although the Constitution does not authorize voting out of the State, yet it does not forbid it; and therefore that the Legislature may pass this act without violating the Constitution. This objection has been disposed of by the Supreme Court of Connecticut, in the decision to which reference has been made. The learned Judge who delivered the opinion of the court in that case, uses the following conclusive language upon this point: "Nor can it with truth or safety be said, that although the Constitution prescribes a certain place where votes may be cast, it does not prohibit their being cast in any other place. Neither in Constitutions nor statutes do men deem it necessary to accompany an express and full direction to do a particular thing in a particular way, by an express direction not to do it in any other. Officers civil and military understand that every such direction of a superior, carries with it an implied prohibition against doing the thing prescribed in any other way."

But suppose there was doubt about the meaning of the language of the Constitution, and that there had been no judicial construction of the words, still every test usually applied to discover the intent, proves that the holding of an election out of the State was never contemplated. We are often able to discover the true construction of constitutional provisions, by consulting former constitutions, and antecedent or cotemporaneous statutes, relating to the same subject. No concession, constitution, or law of the province, colony, or State of New Jersey, has ever authorized voting at any place, except within our territorial bounds. If it had been intended by the framers of our new Constitution to change the settled law and usage which had prevailed from the earliest settlement of the country, through all the wars in which our people had participated, such change would have been expressly provided for in that instrument, by the use of such terms as could not be misapprehended. Some alterations were made in the qualifications of voters. The former property qualification was abolished, and residence in the county altered from twelve to five months; but no change was made in the *place* of voting. The Constitution of 1776, which was in force when that of 1844 was formed, required that if an inhabitant of the colony claimed to vote, it should be *in the county* where he had resided twelve months. The election law of 1839, which was in force in 1844, defined clearly what was at the time understood to be the meaning of the constitutional provision in respect to the place of voting. The first section of that act reads as follows, viz.: "Every free white male citizen of the United States, of the age of twenty-one years or upwards, who shall be worth fifty pounds proclamation money clear estate in this State, and shall have resided in the county *in which he shall claim a right to vote* for one whole year next preceding any election which shall be held under this act, shall have a right to vote THEREIN, IN THE TOWNSHIP IN WHICH

HE SHALL ACTUALLY RESIDE, AND NOT ELSEWHERE." This was a legislative interpretation of the meaning of the Constitution then existing in reference to the *place* of voting, which, as has already been stated, agreed with the present instrument in that particular. The first act regulating elections passed after the adoption of the new Constitution, may be found in the pamphlet laws of 1845, and in it we find the construction of its provisions in reference to the right of suffrage made by a Legislature elected the same year the Constitution was adopted. The language of the statute is almost identical with that of the new Constitution, and where it differs, it appears to have been intended to elucidate and explain any possible obscurity in the terms of the Constitution. We quote from the Act of April 4th, 1845, as follows, viz: "Every white male citizen of the United States of the age of twenty-one years or upwards, who shall have been a resident of this State one year, *and of the county in which he claims his vote* five months next before the election, is entitled to vote *in the township in which he actually resides, and not elsewhere.*" The man who claims his vote must exercise the right in some township of the county in which he resides and not elsewhere. He cannot constitutionally vote out of the county, but he may be required by legislative enactment to exercise the right of suffrage which he claims in some subdivision *within the county* of his residence.

There is another consideration which proves that it was never intended to allow the holding of elections out of the State. No one can be punished *here* for an offence committed in another State, nor can any one be punished *there* for any offence against our laws. It follows, therefore, that any act regulating such elections would be entirely inoperative, and if twenty more sections were added to this voluminous bill, prescribing for violation of its provisions all the penalties to be found in the statute book, it could not be enforced. The framers of the Constitution never intended to give the Legislature the power to order elections beyond the operation of our laws. They intended to keep the ballot box within the control of our courts. The elective franchise is the very corner stone of a Republican form of government. If it cannot be preserved in purity, a Republic is but little better than a monarchy. If the sacred right of suffrage is to be exercised in places where the law is powerless, and where all legal guards usually protecting it are wanting, it is of little value. Every illegal vote infringes to that extent upon the rights of legal voters. What control could the laws of our State have over an election held in Virginia or Tennessee, in Mississippi or Texas? Just as much and no more, than they would have over the exercise of suffrage in London or Paris, by civilians temporarily absent, and sojourning in those cities. Should illegal votes be cast, judges swear falsely, voters be intimidated, or the ballot box be tampered with by partizan officers, how could the offenders be arrested or the crime punished?

For the various reasons herein set forth, the bill now presented is, in the opinion of the Committee, unconstitutional. If passed into a

law, it would be invalid, and have no binding force under the Constitution as it now stands. Therefore this Legislature should not pass the bill. We think the soldiers themselves who volunteered to defend the Constitution and Laws, would be the last to desire their violation for any purpose.

We are in favor of giving to our brave soldiers, who are legal voters, the opportunity to enjoy the right of suffrage, in such way and at such places as to insure a free, full and fair exercise of the right. The soldiers know that this opportunity cannot be had in the army while in the midst of an active campaign, even if the Constitution did not forbid. Not a day's notice of the place for voting could be given, because none could foresee where the exigencies of the service would require the men to be on election day. The military authorities could exclude from the camp any papers or documents they saw fit; they could, if they thought best, admit certain persons to distribute one class of tickets and refuse passes to other persons; they could, on election day, order certain men on duty away from the place of voting; and, in fact, if so disposed, they could in many ways prevent a full and free ballot. When to these considerations we add the fact, that no law can be passed which will guard the sanctity of the ballot-box opened in another State, every unprejudiced man must admit that a fair vote could not be had by the soldier under such circumstances.

We therefore recommend that the military authorities be requested (if the public service will allow) to permit the New Jersey soldiers who are legal voters, without regard to their party views or predilections, to come to this State, on the days appointed for elections, and as individual voters, at the polls in their respective townships, among their neighbors, untrammelled by military restraint, and under the protection of their own State laws, freely to exercise the inestimable right of suffrage.

All which is respectfully submitted.

MICHAEL TAYLOR,
ADOLPH SCHALK,
DAVID B. WYCKOFF,
Majority of Committee.

March 8th, 1864.

MINORITY REPORT.

To the Members of the House of Assembly of the State of New Jersey :

The undersigned, being members of the Committee to whom was referred the bill entitled "An act to enable qualified voters of this State, in the military service of this State, or of the United States, to exercise the right of suffrage," respectfully report that they have examined and considered its provisions, and earnestly recommend the passage of the bill. We are utterly unable to conceive how any freeman who remains at home, enjoying the security and blessings which our gallant soldiers are, amid peril and sufferings maintaining for them, can consent to deny them this most sacred right of freemen, provided it is in accordance with the constitution, and is practicable to confer that right.

The elective franchise in a free republic can be entrusted to none more safely than to those who are voluntarily fighting the battle of freedom for the world.

If there are any who for partisan purposes desire to withhold this right from those who fill the ranks of our patriot army, to such the undersigned have no arguments to address. The only questions are, is it constitutional to permit the citizen who has had a residence in this State for one year, and in the county where the election at which his vote is to be counted for five months next before the election, to cast his vote without his being present in the county at the time of the election; and if it be constitutional is it practicable?

It is clearly constitutional. Our constitution is written. It restrains legislation in *nothing* except where it does so *expressly*. Where, we ask, is the provision of the Constitution, which says, the voter must be present at the polls, or in the county when voting?

The only restriction of the Constitution is that none shall vote except "the white male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State for one year, and of the county for five months next before the election." This provision is found in the second article of the Constitution.

The fact of the voter being absent from the State or county, as volunteers or drafted men, in the army of the United States, intending to return to their homes, does not disqualify them as voters.

The courts of this State have determined that the residence to

entitle a person to vote does not require that he should be constantly within the county or State; if his fixed home is established within the State one year, and within the county five months, it is sufficient; that occasional absence for months, even with his family, if he has the intention to return, will not take away this right; and that a residence once acquired remains a residence until a residence somewhere else is acquired by a removal with the intention of remaining; and that an absence attending to a public duty does not destroy the residence of the person so away.

It is a very proper provision of our statute in ordinary cases to require the voting to be done at the polls, and by ballot, but there is no provision of the Constitution requiring it. If there is, let it be read. If there is not, then the Constitution would not be violated by a law authorizing the white male citizen soldier of 21 years, who has the residence named, to vote in his ranks.

It has been suggested that the law would not be constitutional, because the State cannot enact and enforce, out of the State, penalties against fraud in voting. Where, we ask, is the provision of the Constitution that any such penalties shall be enacted or enforced?

There is no such provision. That objection may be considered under the only other question there is relative to the subject, viz.:

Being constitutional, is it practicable to have our soldiers vote out of the State?

This question is at once conclusively answered by the fact that it has been successfully done in reference to elections in other States. The bill provides every requisite check and guard, and the strict military discipline of the camp is infinitely more efficient to enforce those checks and guards, and to preserve the purity of the election than in the civil magistracy of the country.

The undersigned perceive no force in the suggestion, that to authorize the citizens of this State to cast their votes when in another State, to be counted in this, would be an infringement of the sovereignty of such State.

How is it any more of an offence for a citizen of this State quietly to place in a box the silent missive that shall here make known his political sentiments, than to send a proxy for the election of a director of a corporation, or a letter to his family?

The other suggestion made, that the object sought shall be attained by the commanding officer permitting the soldier to return home to vote, the undersigned look upon as a poor apology for refusing to brave men (whose every privilege should be dear to us,) a just and valued right. Their return home is dependent, not upon the commanding officer, but upon the fierce and desperate rebel foe they are facing.

To invite one who has buckled on his armor to do battle, to come home and vote while the enemy is before him, is, if not insulting, trifling with him, and at a general election would be equivalent to disbanding the army.

The undersigned recommend the passage of the bill. It will be proclaimed along the lines, and the regard thus manifested by us at home for the civil rights of our citizens in the camp will inspire them with new courage, and with renewed devotion to the sacred cause of civil liberty.

JACOB BIRDSALL,
WM. A. HANCOCK,
Minority of Committee.

REPORTS ON ASSEMBLY BILL NO. 180
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JACOB HIRSHALL
WM. A. HANCOCK
Minority of Committee

PREAMBLE AND RESOLUTIONS,

ADOPTED BY A MAJORITY OF BOTH HOUSES OF THE LEGISLATURE.

WHEREAS, Under the present Constitution of New Jersey a law cannot be passed authorizing the citizens of the State to vote at places outside of the State; and whereas, no change of the Constitution can lawfully be effected under two years; and whereas, it is right that our brave soldiers should, (so far as it is not detrimental to the military service) have the opportunity of exercising freely, and under the protection of law, the right of suffrage, therefore,

Resolved, (Senate concurring,) That the proper military authorities be requested (as far as the exigencies of the military service shall allow,) to permit soldiers who are legal voters in this State, without respect to their political principles, to visit their homes, as individual citizens, on days of election, so that they may have the opportunity to enjoy the right of suffrage in the respective townships or wards of their residence, under the protection of the laws of the State of New Jersey, and free from those military restraints which must necessarily exist in large armies in active service.

Resolved, That the Governor be requested to forward a copy of the foregoing resolution to the Commander-in-Chief of the army of the United States.

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