

CITIZENSHIP OF NAVAL DESERTERS—VETO MESSAGE.

The following message was received from the President of the United States, by Mr. Latta, his secretary:

*To the Senate:*

I return herewith without approval S. 5473, an act amending section 1998 of the Revised Statutes of the United States and to authorize the Secretary of the Navy in certain cases to mitigate or remit the loss of rights of citizenship imposed by law upon deserters from the naval service, and I inclose the adverse reports of the Secretaries of War and the Navy and the Attorney-General. The reasons set forth in these three reports seem to me conclusive. A previous Secretary of the Navy has recommended that in the case of deserters from the naval service the Secretary of the Navy shall be given power to mitigate or remit the loss of the rights of citizenship where the offense was committed in time of peace, and where the exercise of such clemency will not be prejudicial to the public interest. With the purpose of this recommendation I entirely agree, but my attention has been called to the fact that under the decision of the Supreme Court in *re Garland*, Fourth Wallace, it is a matter of grave doubt whether legislation vesting a portion of the pardoning power in any officer or department of the Government except

the President is warranted under the Constitution, the language of the Supreme Court being such as to make it at least doubtful whether this pardoning power can be given to any other official, can be added to or subtracted from, or can be rendered subject to legislative control. In view of this decision the power to pardon, or to remit or mitigate the loss of rights of citizenship, which is of the nature of a pardon, can only be exercised by the President.

But aside from this, the bill is gravely defective and goes far beyond what the Secretary of the Navy recommended. The language is confused and conflicting, so that the exact meaning of the proposed act is not plain. But in the first place it is clear that while it provides for the abolition of the penalty of loss of citizenship in regard to deserters both from the army and the navy, yet, curiously enough, it only specifies the Secretary of the Navy and not the Secretary of War as having power to mitigate or remit the penalty in question. This alone would render it in the highest degree inadvisable to sign the bill, for of course it can not have been the intention of Congress to make a one-sided discrimination of an entirely illogical kind between the army and the navy in this matter. But in addition it seems probable that the discretion of the Secretary of the Navy to pardon offenders, which was what the previous Secretary of the Navy asked for, is only extended to offenses that have already been committed. As to offenses hereafter committed, while the language of the bill is sufficiently confusing to make it a little difficult to say with certainty what it means, it appears probable that it means that hereafter there shall be no loss of citizenship in any case where a man deserts from the Army or Navy in time of peace, and this no matter how heinous his offense. Such a provision would work grave wrong; for, if enacted into law it would seriously embarrass the discipline of the military and naval services, and would completely mislead public opinion as to the grave moral obliquity involved in the crime of desertion. Desertions from the Army and Navy are already a crying evil; in very many cases the crime is committed under circumstances which show deliberate intention and hardened indifference to the interests of the country. It appears therefore that the present bill would actually encourage hardened offenders to commit a heinous crime against the flag and the Nation, and as regards future cases would refuse to permit discrimination between such offenders and those whose offense is committed under circumstances which so mitigate it as to make it comparatively venial and really amounting to not much more than absence without leave; while in addition, as already pointed out, it discriminates in most curious fashion and probably quite unintentionally between what is required in cases which arise in the Navy and what is required in cases which arise in the Army.

There would be no objection to the proposed act if it were drawn up as recommended by the then Secretary of the Navy a year ago, and if the pardoning power were lodged in the President, who could then exercise it both as regards the Army and the Navy. The bill would then read as follows:

That every person who hereafter deserts the military or naval service of the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military or naval service, lawfully ordered, shall be liable to all the penalties and forfeitures of section nineteen hundred and ninety-six: *Provided*, That the loss of rights of citizenship imposed by law upon deserters from the military or naval service may be mitigated or remitted by the President where the offense was committed in time of peace and where the exercise of such clemency will not be prejudicial to the public interests.

THEODORE ROOSEVELT.

THE WHITE HOUSE, February 10, 1909.

The message was read.

The Senate proceeded, as the Constitution prescribes, to consider the bill (S. 5473) returned by the President of the United States to the Senate, in which it originated, with his objections; which bill is in the following words, viz:

[S. 5473. Sixtieth Congress of the United States of America; at the second session, begun and held at the city of Washington on Monday, the 7th day of December, 1908.]

An act amending section 1998 of the Revised Statutes of the United States and to authorize the Secretary of the Navy in certain cases to mitigate or remit the loss of rights of citizenship imposed by law upon deserters from the naval service.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person who hereafter deserts the military or naval service of*

*the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military or naval service, lawfully ordered, shall be liable to all the penalties and forfeitures of section 1996: Provided, That the provisions of this section and section 1996 shall not apply to any person deserting the military or naval service of the United States in time of peace: And provided further, That the loss of rights of citizenship imposed by law upon deserters from the naval service may be mitigated or remitted by the Secretary of the Navy where the offense was committed in time of peace and where the exercise of such clemency will not be prejudicial to the public interests.*

J. G. CANNON,  
*Speaker of the House of Representatives.*

CHARLES W. FAIRBANKS,  
*Vice-President of the United States  
and President of the Senate.*

I certify that this act originated in the Senate.

CHARLES G. BENNETT,  
*Secretary,*

By H. M. ROSE,  
*Assistant Secretary.*

The Vice-President stated the question to be, Shall the bill pass, the objections of the President to the contrary notwithstanding?

When,

On motion by Mr. Hale,

*Ordered,* That the bill and message be referred to the Committee on Naval Affairs and printed.