## VETO.

Return of the Civil Rights Bill-Objections of the President-The Rights of Citizenship-State Discrimination Between the Races-Restraints of the National Government-Powers of Congress Defined-Conflict of Judicial Authority -Powers Conferred Under the Bill-Adequacy of the Army and Navy, Etc.

WASHINGTON, March 27, 1866.

To the Senate of the United States :-I regret that the bill which has passed both Houses of Congress, entitled "An act to protect all persons in the United States in their civil rights, and furnish the means of their vindication," contains provisions watch I cannot approve consistently with my senso

which I cannot approve consistently with my senso of duty to the whole people, and my obligations to the Constriction of the United States.

I am, therefore, constrained to return it to the Senate, the House in which it originated, with my objections to its becoming a law. By the first section of the bil all persons born in the United States, and not subject to any foreign power, excluding Indians not [seed, are declared to be efficient of the and not subject to any foreign power, excluding Indians not faxed, are declared to be crizens of the
United States. This provision comprehends the
Chinese of the Pacific States, Indians subject to taxation, the people called tripsies, as well as the entire race designated as blacks, people of color, negroes, mulatices, and persons of African blood.
Every individual of these races born in the United
States is by the bill made a citizen of the United
States. It does not purpose to declare or conferany other right of citizenship than "Federal citizenship." It does not purport to give these
curses of persons any status as citizens of States,
except that which may result from their status as
citizens of the United States. The power to conferthe right of State citizenship is just as exclusively
with the several States as the power to confer the with the several States as the power to confer the right of Federal citizenship is with Congress. The right of Federal citizenship thus to be conferred n the several excepted races before mentioned, is now for the first time proposed to be given by law. If, as is claimed by many, all persons who are native born already are by virtue of the Constitution cuizens of the United States, the passage of the pending bill cannot be necessary to make them such. If, on the other hand, such persons are not citizens, as may be assumed from the proposed legislation to make them such, the grave question legislation to make them such, the grave question presents itself whether, when eleven of the thirty-six States are unrepresented in Congress at this time, it is sound believe to make our entire colored population, and all other excepted classes, citizens of the United States. Four millions of them have just emerged from slavery into freedom. Can it be reasonably supposed that they possess the requisite qualifications to entitle them to all the privileges and immunities of citizens of the United States? Have the people of the several States expressed such a conviction? It may also be asked whether it is a conviction? It may as one asked whether it is necessary that they should be deciared cluzens in order that they may be secured in the enjoyment of the civil rights proposed to be conferred by the bill?

Those rights are by Federal as well as State laws secured to all domiciled aliens and foreigners, even before the completion or the process of naturalization; and it may sately be assumed that the same tion; and it may safely be assumed that the same enactments.arc sufficent to give like protection and benefits to those for whom this bill provides special

Besides, the policy of the Government, from its origin to the present time, seems to have been that persons who are strangers to, and unfamiliar with our institutions and our laws, should pass through a certain probation, at the end of which, before attain-ing the cove ed privelege, they must give evidence of their fitness to receive and to exercise the rights of citizens, as contemplated by the Constitution of the

The bill in effect proposes a discrimination against large numbers of intelligent, worthy, and patriotic foreigners, and in layor of the negro to whom, after long years of bondage, the avenues of freedom and intelligence have just now been suddenly opened. He must of necessity, from his previous unfortunate condition of servitude, be less informed as to the nature and character of our institutions than he who, coming from abroad, has to some extent, at least, familiarized himself with the principles of a Government to which he voluntarily entitudes life, liberty, and the pursuit of happiness. Yet it is now proposed, by a single legislative enactment, to confer the rights of citizens upon all persons of African descent born within the extended limits of the United States while presence of corriers limits of the United States, while persons of foreign birth, who make our land their home, must un-dergo a probation of five years, and can only then become citizens upon proof that they are of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same. The first section of the birl also contains an enumeration on the rights to be enjoyed by these classes so made citizens in every State and Territory or the United States. These rights are to make and enforce confracts, to sue, be parties, and give evidence, to in-herit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings for the security of person and property as is now enjoyed by white citizens. So, too, they are made subject to the same punishment, pains, and penaticles in common with white citizens and to none others. Thus a perfect equality of the white and colored races is attempted to be fixed by Federal law in every State of the Union over the vast field of State jurisdiction covered by these enumerated rights. In no one of these can any State ever exercise any power of discrimination between the different races. In the exercise of State poincy over matters exclusively affecting the people of each State, it has frequently been thought expedient to discriminate between the

By the statutes of some of the States, Northern as well as Southern, it is enacted, for instance, that no white person shall intermarry with a negro or mulatto. Chancellor Kent says, speaking of the blacks, "that marriages between them and the whites are forbidden in some of the States where slavery does not exist, and they are prohibited in all the slave-holding states; and when not absolutely contrary to law, they are revoiting, and regarded as an offense against public decorum." I do not say that this bill repeals State laws on the subject of marriage between the two races, for as the whites are for-bedgen to intermarry with the blacks, the blacks can only make such contracts as the whites them. can only make such contracts as the whites them-melves are allowed to make, and therefore cannot, under this bill, enter into the marriage contract with the whites. I cite the discrimination, how-ever, as an instance of the State policy as to dis-crimination, and to inquire whether, if Congress can abrogate all State laws of discrimination between the two races in the matter of real estate, of suits, and of contracts generally, Congress may not also repeal the State laws as to the contract of mar-lage between the two races? Hitherto every subject embraced in the enumeration of rights contained in this bill has been considered as exclusively belonging to the States; they all relate to the internal policy and economy of the respective States. They are matters which, in each State, concern the domestic condition of its people, varying in each according to its own peculiar circumstances and the safety and well-being of its own citizens.

I do not mean to say that upon all these subjects there are not Federal restraints. As, for instance, in the State power of legislation over contracts there is a Federal limitation that no State shall pass in the State power of legislation over contracts there is a Federal limitation that no State shall pass a law impairing the obligations of contracts; and as to crimes, that no State shall pass an expost facto law; to money, that no State shall make anything but gold and silver a legal tender. But where can we find a Federal prohibition against the power of any State to discriminate as do most of them, between aliens and citizens, between artificial persons, called corporations, and national persons, in the right to hold real estate. It it be granted that Congress can repeal all state laws discriminating between whites and blacks in the subjects covered by this bill, why, it may be asked, may not Congress repeal in the same way all those laws discriminating between the two races on the subject of suffrage and office? If Congress can declare by law who shall hold lands, who shall festify, who shall have capacity to make a contract in a State, then Congress can by law also declare who, without regard to race or color, shall have the right to sit as a juror or as a judge, to hold any office, and finally to vote, in every State and Territories, they come within the power is the Federal power; but as to the States. As respects the Territories, they come within the power to make rules and regulations for them.

The object of the second section of the bill is to afford discriminative protection the colored persons in the full epjoyment of all the rights secured to them. By the preceding section it declares that "any person who, under color of any law statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or

ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties, on account of such persons having at any time been held in a condition of slavery, or

involuntary servitude, execut as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is preser thed for the punishment of white persons, shall be ocemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, in the discretion of the occur." This section seems to be designed to apply to some existing or uture law of a State or Ierritory, which may conflict with the provisions of the bill now under consideration. It provides for counteracting such forbidden legislation by imposing a fine and imprisonment upon the legislators who may pass such conflicting laws, or upon the officers or agents who shall put or attempt to put them into execution. It means an official offense, not a common crime committed against law upon the person or property of the black race. Such an act may deprive the black man of his property, but not of the right to hold property. It means a deprivation of this right itself, either by the State Legislature of this right itself, either by the State Legislatures who should render judgments in antagonism with its terms, and that marshals and sheriffs who should as ministerial officers, execute processes sanctioned by State laws and issued by State judges in execution of their judgments, could be brought before other tribuna s, and there subjected to hine and imprisonment for the performance of the duties which such State laws and issued by State judges in execution of their judgments, could be brought before other tribuna s, and there subjected to hine and imprisonment for the performance of the duties which such State laws and issued by State judges in execution of their judgments, lower such a subject matter, the State law is paramount, and under color of a State law refuse the exercise of fire right to the negro, your error of indyment, lowers conscientious, shall subject you to fine a necessary at this time to adopt a measure of such constitutionality.

In the next place, this provision of the bill seems to be unnecessary, as adequate judicial remedies could be adopted to secure the or sired and without could be adopted to secure the o-sized and without involving the immunities of legislatures, always important to be preserved in the interests of public liberty; without assailing the independence of the judiciary, always escential to the preservation of individual rights; and without impairing the efficiency of ministerial officers, always necessary for the maintenance of public pence and order. The remety proposed by this section seems to be in this respect not only anomalous, but unconstitutional, for the Constitution guarantees nothing with certainty if does not resurt to the several States the tainty if it does not ensure to the several States the right of making and executing laws in regard to all matters aroing within their jurisdiction, subject only to restriction in cases that conflict with the Consti-tution and constitutional laws of the United States— the latter should be held to be the supreme law of

the land The third section gives the D strict Courts of the United States exclusive "cognizance of all crimes and offenses committed against the provisions of this act," and concurrent jurisdiction with the Circuit Courts of the United States of all civil and criminal cases affecting persons who are denied or cannot en force in the courts or judicial tribuna's of the State or locality, wherever they may be, any of the rights secured to them by the first section; and the construction which I have given to the second section is strengthened by this third section, for it makes clear what kind of cennal or deprivation of the rights secured by the first section was in contemplation. It is a denial or deprivation of such rights "in the courts or judicial trit unals or the State." It stands, therefore, clear of doubt that the offense and the penalties provided in the second section are intended for the State judge who, in the clear exercise of his functions as a judge, not acting ministerially but judicially, shall decide contrary to this Federal law.

In other words, when a State judge, acting upon s question involving a conflict between a State law and a Federal law, and bound, according to his own judgment and responsibility, to give an impartial decision tetween the two, comes to the conclusion that the State law is valid and the Federal law is invalid, he must not follow the dictates of his own judgment at the peril of fine and impresonment. The legislative department of the Government of the United States thus takes from the judgment department of the States thus takes from the judgment department of the States thus takes are and exclusive duty of the States the states are and exclusive duty. ment of the States the sacred and excusive duty of judicial decision, and converts the State judge into a mere ministerial officer, bound to decide according

mere ministerial officer, bound to decide according to the will of Congress.

It is clear that in the States which deny to persons whose rights are secured by the first section of the bill any one or the rights, all criminal and civil cases affecting them will, by the provision of the third section, come under the exclusive cognizance of the Federal tribunals. It follows that if in any state which denies to a colored person any one of those rights, that person should commit a crime against the laws of the State, murder, arson, rare, or any other crime, all protection or punishcrime against the laws of the State, murder, arson, rape, or any other crime, all protection or punishment through the courts of the State is taken away, and he can only be tried and punished in the Federal courts. How is the criminal to be tried If the offense is to be provided for and punished by Federal law? That law, and not the State law, is

o govern.
If is only when the offense does not happen to be within the purview of Federal law that the Federal courts are to try and punish him. Under any other law, then resort is to be had to the common law, as modified and changed by State legislation, so far as the same is not inconsistent common law, as modified and changed by State legislation, so far as the same is not inconsistent with the Constitution and laws of the United States. So that over this vast domain of criminal jurisprudence, provided by each State for the protection of its own citizens, and for the punishment of all persons who violate its criminal laws, Federal law, wherever it can be made to apply, displaces state law. State law.

The question here naturally arises, from what

source Congress derives the power to transfer to federal tribunals certain classes of cases embraced in this section? The Constitution expressly declares that the judicial power of the United States shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting subject. under their authority; to all cases affecting ambas-sadors, other public ministers and consuls; to all cases of admiralty and maritime jurisciction; to controversies to which the United States shall be a jaity; to contiguersies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming land under grants of different States, and between a State, or the citizens thereof, and foreign States citizens or

subjects. Here the judicial power of the United States is expressly set forth and defined, and the act of Septem-tember 24, 1789, establishing the judicial courts of the United States, in conferring upon the Federal courts jurisdiction over cases originating in State tribunals, is careful to confine them to the classes enumerated in the above-recited clause of the Constitution. This in the above-recited clause of the Constitution. This section of the ball undoubtedly comprehends cases and authorizes the exercise of powers that are not, by the Constitution, within the jurisdiction of the courts of the United States. To transfer them to those courts would be an exercise of authority well calculated to excite distrust and alarm on the part of all the States—for the bill applies alike to all of them—as well to those that have as to those that have not been engaged in rebel ion. It may be assumed that this authority is incident to the power granted to Congress by the Constitution, as recently amended, to enforce, by appropriate legislation, the article declaring that neither slavery nor involuntary servitude, except as a pounshment for erime, whereof the tude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their investigation.

their jurisdiction.

It cannot, however, be justly claimed that, with a view to the enforcement of this article of the Constitution, there is at present any necessity for the exercise of all the powers which this bill confers. Slavery has been abolished, and at present nowhere exists within the jurisdiction of the United States, nor has there been, nor is it likely there will be, any attempt to renew it by the people or the States. If, however, any such attempt shall be made, it will become the duty of the General Government to exercise any and all incidental powers necessary and proper to maintain inviolate the great law of their jurisdiction.

and proper to maintain inviolate the great law of The fourth section of the bill provides that officers and agents of the Freedmen's Bureau shall be empowered to make arrests, and also that other officers may be specially commissioned for that purpose by the Fresident of the United States. It also authorizes Circuit Courts of the United States and the Euperor Courts of the Territories, to appoint, without limitation, commissioners, who are to be charged with the performance of quasi judi-

to be charged with the performance of quasi judicial duties.

The fifth section empowers the 'commissioners so to be selected by the courts, to appoint in writing under their hands, one or more suitable persons, from time to time, to execute warrants and other prosecutions desired by the bill. These numerous official agents are made to constitute a sort of police in addition to the military, and are authorized to summon a posse comitatus, and even to call to their aid such portions of the land and naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged. This extraordinary power is to be conferred upon agents irresponsible to the Government and to the people, to whose number the discretion of the commissioners is the only limit, and in whose hands such authority might be made a terrible engine of wrong, oppression, and fraud.

The general statutes regulating the land and naval forces of the United States, the militia, and the execution of the laws, are believed to be adequate for every emergency which can occur in time of peace. It it should prove otherwise Congress can at any

time amend those laws in such a manner as, while subserving the public welfare, not to jeopard the rights, interests, and interests of the people.

The seventh secuon provides that a fee of ten dole lars shall be paid to each commissioner in every case brought before him; and a fee of five collars to his deputy or deputies; for each person he or they may arrest and take before any such commissioner, with such other fees as may be deemed reasonable by such commissioner in general for performing such other duties as may be required in the premises. All these fees are to be paid out of the Treasury of the United States, whether there is a conviction for not; but in onse of conviction they are to be recoverable from onse of conviction they are to be recoverable from the defendant lt seems to me that under the inthe defendant lt seems to me that under the in-fluence of such temptation bad men might convert any law, however beneficent, intogan instrument of

persecution and fraud.

By the cichth section of the bill the United States courts, which set only in one place for white citizens, must migrate, the marchal and distance attorney, and necessarily the cierk, although he is not mentioned, to any part of the district upon the order of the President, and there hold a court, for the purpose of the more speady arrest and trial of persons charged with a violation of this set; and there the judge and the officers of the court must remain, on the order of the President, for the time debignated. The numbs section guithorizes the President, or such persecution and fraud. the order of the President, for the time designated.

The muth section authorizes the President, or such person as he may empower for that purpose, to employ such part of the fand or naval forces of the United States, or of the multita, as shall be necessary to prevent the violation and enforce the due execution of this act. This language seems to imply an important military force, that is to be always at hand, and whose only business is to be the enforcement of this message over the vast region where it is intended to operate.

I do not propose to consider the policy of this bill.

is intended to eperale.

I do not propose to consider the policy of this bill.

To me the details of the bill are fraught with evil.

The white race and the black race of the South have hitherto fived together under the relation of master and slave—capital owning labor. Now, suddenly, that relation is changed; and as to ownership, capital and labor are divorced. They stand now each master of itself—in this new relation one being necessary to the other.

There will be a new adjustment, which both are deeply interested in making harmonious. Each has equal power in setting the forms, and if left to the laws that regulate capital and labor, it is confidently believed that they will satisfactorily work out the problem. Capital, it is true, has more intelligence, but labor is never so ignorant as not to understand its own interests not to know its own understand its own interests, not to know its own value, and not to see that capital must pay that value. This bill frustrates this adjustment, it intervenes between capital and labor and attempts to tervenes between capital and labor and attempts to settle questions of political economy through the agency of numerous officials, whose interest it will be to foment discord between the two races; so far as the breach widens, their employment will continue, and when it is folosed, their occupation will terminate in all our history, in all our experience, as a people living under Federal and State law. No such system as that contemplated by the details of this bill has ever before been proposed or adopted to establish for the security of the colored race safeguards which so infinitely beyond any that the to cstablish for the security of the colored race safe-guards which go infinitely beyond any that the General Government has ever provided for the white race. In fact, the distinction of race and color is by the bill made to operate in favor of the colored and against the white race.

They interiere with the municipal legislation of the, states, with the relations existing exclusively between a State and the distance in between when

between a State and its citizens, or between inhabitants of the same State—an absorption and assumption of power by the General Government which, if acquiesced in must sap or destroy our Federative system of limited powers, and break down the bar-riers which preserve the rights of the States. It is another step, or rather stride, towards contraliza-tion, and the concentration of all legislative powers in the National Government. The tendency of the bill must be to resuscitate the spirit of rebellion, and to arrest the progress of those influences which are more closely drawing around the States the bonds of union and resec. union and peace.

hy lamented predecessor, in his proclamation of the 1st of January, 1865, ordered and declared that all persons held as slaves within certain S ates, and parts of States therein designated, were and thence-forward should be tree; and further, that the Execu-tive Government of the United States, including the military and naval authority thereof, would recognize and maintain the freedom of such persons.
This guarantee has been rendered especially obligatory and sacred by the amendment of the Constitution abolishing slavery throughout the United
States. I therefore fully recognize the obligation
to protect and defend that class of our people whenever and wherever it shall become necessary, and to ever and wherever it shall become necessary, and to the full extent compatible with the Constitution of

the United States. Entertaining these sentiments, it only remains for me to say that I will cheerfully co-operate with Con-gress in any measure that may be necessary for the promotion of the civil rights of the freedmen, as well as those of other classes of persons throughout the United States, by judicial process funder equal and impartial laws, in conformity with the provisions of the Federal Constitution. I now return the bill to the Senate, and regret that in considering the bills and joint resolutions forty-two in number which and joint resolutions, forty-two in number, which have been thus far submitted for my approval. I am compelled to withhold my assent from a second measure that has received the sanction of both Houses of Congress ANDREW JOHNSON

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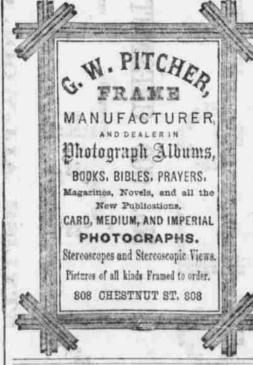
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