THE DAILY EVENING BULLETIN; PHYLADELPHIA, WEDNESDAY, MARCH 28, 1866.

ANOTHER EXERCISE OF THE VETO POWER.

THE PRESIDENT VETOES THE CIVIL **BIGHTS BILL**

His Message in Full.

WASHINGTON, Marsh 27 .- 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 which I cannot approve consistently with my sause of duty to the

contains provisions which I cannot approve consistently with my sense of duty to the whole people, and my obligations to the Constitution of the United States. I am, therefore, constrained to return it to the Senate, the house in which it origin-ated, with my objections to its becoming a law. By the first section of the bill all per-sons born in the United States, and not sub-ient to any foreign Power, excluding Inject to any foreign Power, excluding In-dians not taxed, are declared to be citizens of the United States. This provision com-prehends the Chinese of the Pacific States, prehends the Chinese of the Pacific States, Indians subject to taxation, the people called gipsies, as well as the entire race de-signated as blacks, people of color, negroes, mulattoes 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. of the United States. It does not propose to declare or confer any other right of citi-zenship than "Federal citizenship." It does not purport to give these classes of persons any status as citizens of States, except that which may result from their status as citiwhich may result from their status as citi-zens of the United States. The power to confer the right of State citizenship is just as exclusively 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 on the several excepted races be-fore-mentioned is now for the first time proposed to be given by law. If, as is claimed by many, all persons who are na-tive born are by virtue of the Constitution oitizens 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 pre-sents itself whether, when eleven of the thirty-six States are unrepresented in Con-gress at this time, it is sound policy to make thirty-six States are unrepresented in Con-gress at this time, it is sound policy 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 them to all the privileges and immunities of citizens of the United States? Have the people of the several States expressed such people of the several States expressed such a conviction?

I may also be asked whether it is neces-sary that they should be declared citizens in order that they should be declared of the should be 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 of the process of naturaliza-tion, and it may safely be assumed that the same enactments are sufficient to give like protection and benefits to those for whom

This bill provides special legislation. 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 attaining the coveted privilege, they must give evi-dence of their fitness to receive and to exercise the rights of citizens, as contemplated by the Constitution of the United States. The bill, in effect, proposes a discrimina-tion against large numbers of intelligent, worthy and patriotic foreigners, and in favor of the negro, to whom, after long years

prohibition against the power of any State to discriminate as to most of them between aliens's id citizens, between artificial per-sons, c.iled corporations, and national persons, in the right to hold real estate. If 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 Con-gress repeal in the same way all those laws discriminating between the two races on the subject of suffrage and office. If Congress discriminating between the two races on the subject of suffrage and office. If Congress can declare by law who shall hold lands, who shall testify, 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 jurcr or as a judge, to hold any office, and finally to vote, in every State or terri-tory of the United States. As respects the territories, they come within the power of Congress, for as to them the law-making power is the Federal power; but as to the States, no similar provision exists, vesting in Congress the power to make rules and between citizens of different States; between citizens of the same State claiming land un-

in Congress the power to make rules and regulations for them. regulations for them. The object of the second section of the bill is to afford discriminative protection to colored persons in the full enjoyment of all the rights secured to them. By the pre-ceding section it declares that "any person who, under color of any law, statute, ordi-neares regulation or gatom shall subject. nance, 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 penal-ties, on account of such person having at any time been held in a condition of slavery, or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for of his color of race, than is prescribed lot the punishment of of white persons, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not ex-ceeding one thousand dollars, or imprisonment not exceeding one year, or both, in the discretion of the court."

discretion of the court." This section seems to be designed to apply to some existing or future law of a State or territory, 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 at-tempt to put them into execution. It means an official offence, not a common crime committed against law upon the person or property of the black race. Such an act 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, elther by the State judiciary or the State Legislature. It is, therefore, assumed that, under this

section, members of State Legislatures who should vote for laws conflicting with the provisions of this bill, that judges of the State courts who should render judgments in antagonism with its terms, and that marshals and sheriff's who should, as minis-terial officers, execute processes, sanctioned by State laws and issued by State judges in execution of their judgments, could be brought before other tribunals, and there subjected to fine and imprisonment for the subjected to fine and imprisonment for the performance of the duties which such State laws might impose. The legislation thus proposed invades the judicial power of the State. It says to every State court or judge, "If you decide that this act is unconstitu-tional; if you refuse, under the prohibition of a State to allow a part to feasify; if you of a State, to allow a negro to testify; if you hold that, over such a subject matter, the

State law is paramount, and under color of a State law refuse the exercise of the right a State law refuse the exercise of the right to the negro, your error of judgment, how-ever conscientions, shall subject you to fine and imprisonment," I do not apprehend that the conflicting legislation, which the bill seems to contemplate is likely to occur as to render it necessary at this time to adopt a measure of such doubtfully consti-tutionality.

tutionality. In the next place this provision of the bill seems to be unnecessary, as adequate judi-cial remedies could be adopted to secure the. desired end without involving the immunities of legislatures, always important to be preserved in the interest of public liberty: without assailing the independence of the judiciary, always essential to the preserva-tion of individual rights, and without impairing the efficiency of ministerial officers, always necessary for the maintenance of public peace and order. The remedy proposed by this section seems to be in this re-spect not only anomalous, but unconstituional, for the Constitution guarantees nothing with certainty if it does not insure to the several States the right of making and executing laws in regard to all matters arising in their jurisdiction, subject only to the restriction that in cases of conflict with the Constitution 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 District Courts of the United States exclusive "cognizance of all crimes and offences committed agains 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 enforce in the courts or judicial tribunals 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 y this third section, for it makes clear what kind of denial or deprivation of the rights secured by the first section was in contem-plation. It is a denial or deprivation of such rights "in the courts or judicial tribu-nals of the State." It stands, therefore clear of doubt that the offence and penalties provided in the sccond section are intended provided in the second section are intended for the State judge who, in the clear exer-cise 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 upona question involving a conflict between a State law and a Federal law, and bound according to his corr judgment and bound, according to his own judgment and responsibility, to give an impartial decision between the two, comes to the conclu-sion 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 imprisonment. The legis ative department of the government of the U.S.thus takes from the judicial department of the States the sacred and exclusive duty of judicial decision, and converts the State judge into a mere ministerial officer, bound to decide according to the will of

what source Congress derives the power to transfer to Federal tribunals certain classes of cases embraced in thomas contain these stitution expressly declares that the judicial power of the United States shall extend to 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 af-fecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between to or more States; be-tween a State and citizens of another State; between citizens of different States; between

der 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 September 24th, 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 section of the bill undoubtedly comprehends cases and authorizes the exercise of powers that are States, citizens or subjects. the bill undoubtedly comprehends cases and authorizes the exercise of powers that are not, by the Constitution, within the jurisdic-tion of the courts of the United States. To transfer them to those courts would be an exercise of authority well calculated to ex-cite 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 rebellion. It may be assumed that this authority is incident to the power granted to Congress by the Con-stitution, as recently amended, to enforce, by stitution, as recently amended, to enforce, by appropriate legislation, the article declaring that neither slavery nor involuntary servi-tude, except as a punishment for crime, whereof the party shall have been duly con-victed, shall exist within the United States, or any place subject to their jurisdiction. It cannot, however, be justly claimed that with a view to the enforcement of this arti

cle 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 nowher 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 freedom.

law of freedom. The fourth section of the bill provides that officers and agents of the Freedmen's Bu-reau shall be empowered to make arrests, and also that other officers may be specially commissioned for that purpose by the Pre-sident of the United States. It also autho-rizes circuit courts of the United States and the superior courts of the territories to appoint without limitation, commissioners, who are to be charged with the performance of quasi judicial duties. The fifth section empowers the commis-

sioners, 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 offi-cial agents are made to constitute a sort of police in addition to the military, and are authorized to summons 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 neces states, or of the milita, as may be neces-sary to the performance of the duty with which they are charged. This extraordinary power is to be conferred upon agents irre sponsible 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

the general government which, if acquiesced in, must sap or destroy our federative sys-tem of limited powers, and break down the barriers which preserve the rights of the States. It is another step, or rather stride, towards centralization, and the concentra-tion of all logicitize powers in the pational 5-20 towards 'centralization, and the concentra-tion 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 peace. My lamented predecessor, in his procla-mation of the Ist of January, 1863, ordered and declared that all persons held as slaves within certain States and parts of States, therein designated, were and thenceforward should be free; and further that the Execu-

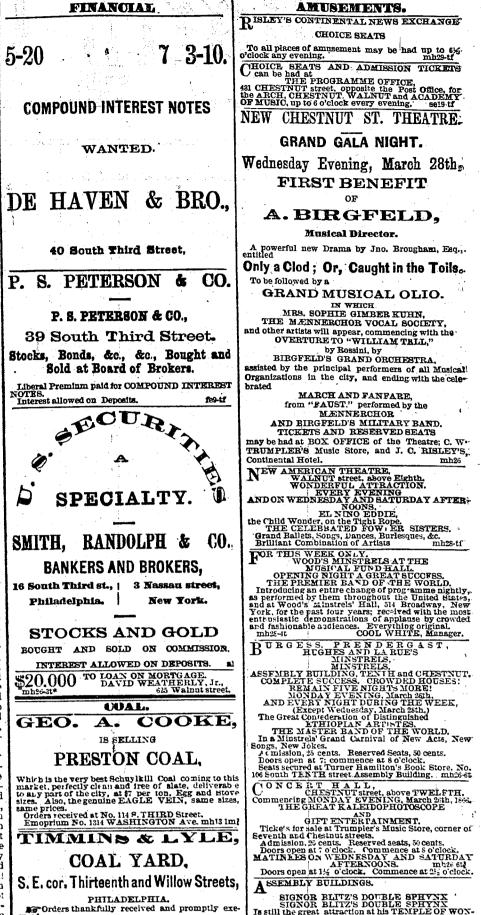
should be free; and further that the Executive government of the United States, in-cluding the military and naval authority thereof, would recognize and maintain the freedom of such persons. This guaran-tee has been rendered especially obligatory

tee has been rendered especially obligatory and sacred by the amendment of the Consti-tution 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 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 Congress in any measure o-operate with Congress in any measur co-operate with Congress in any measure that may be necessary for the promotion of the civil rights of the freedmen, as well as those of all other classes of persons through-out the United States, by judicial process, under equal and impartial laws, in conformity with the provisions of the Federal Constitution. I now retarn the bill to the Senate, and regret that in considering the bills and joint resolutions, forty-two in number, which have been thus far sub-mitted for my approval, I am compelled .to withhold my assent from a second measure that has reached the sanction of both Houses of Concress ANDREW JourNSon

of Congress, ANDREW JOHNSON, WASHINGTON, D. C., March 27, 1866. The Vetoed Bill. The following is a synopsis of the Civil Rights Bill as passed by both Houses of Congress, and vetoed by the President: SECTION 1. That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United S-ates, and such citizens, of every race and 16 South Third st., | 3 Nassau street, color, without regard to any previous condi-tion of slavery or involuntary servitude, ex-cept as punishment for crime, whereof the party shall have been duly convicted, shall have the same right in every State and territory to make and enforce contracts, to suc and to be sued, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subjected to like punishment, pains, and penalties, and regulation, or custom to the contrary notithstanding. SEC. 2. And that any person, who, under

color of any law, statute, ordinance, regula-tion or sustom, shall subject or cause to be subjected any inhabitant of any State or ter-ritory to the deprivation of any right secured or protected by this act, or to punishment, pains or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall te deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine not exceeding one thousand dollars, or impri-sonment not exceeding one year, or both, in the discretion of the court.

Blacksmiths' Coal constantly on hand. mh14-1ml whose hands such authority might be made a terrible engine of wrong, oppression and frand. 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 whose hands such authority might be made the discretion of the court. SEC. 3 provides that the District Courts of the United States within their respective districts shall have, exclusively of the courts of the several States, cognizance of all crimes and offences committed against the provisions of this act; and also, concurrently with the Circuit Courts of HABON BLAES. THE UNDERSIGNED INVITE ATTENTION TO



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of bondage, the avenues to freedom and in-telligence have just now been suddenly opened. He must, of necessity, from his previous unfortunate condition of servitude, he 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 entrusts 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 escent horn within the extended limits of the United States, while persons of foreign birth, who make our land their home, must undergo 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 bill also contains an enumeration of the rights to be enjoyed by these classes so made citizens in every State and territory of the United States.

These rights are to make and enforce con-These rights are to make and enorce con-tracts, to sue, be parties, and give evidence, to inherit, 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 persons and property as is now enjoyed by white citizens. So, too, they are made subject to the same property as is now enjoyed parallicity of the same punishment, pains and penalties in common with white citizens, and to none others. Thus a perfect equality of the white and colored race is attempted to be fixed by Federal law in every State of the Union over reterning 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 differ-ent recer. In the exercise of State - University of ent races. In the exercise of State policy over matters exclusively affecting the peo ple of each State, it has frequently been thought expedient to discriminate between the two rac

Sec. 1

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By the statutes of some of the States, Northern as well as Southern, it is enacted, for instance, that no white person shall in-termarry with a negro or mulatto. Chancellor Kent says, speaking of blacks, "that marriages between them and the whites are very does not exist, and they are prohibited in all the slaveholding States; and when not absolutely contrary to law, they are revolting, and regarded as an offence against pubdecorum.

I do not say that this bill repeals State laws on the subject of marriage between the two races, for as the whites are forbidden to intermarry with the blacks, the blacks can only make such contracts as the whites themselves are allowed to make, and there-cannot, under this bill, enter into the marriage contract with the whites. I cite this discrimination, however, as an instance of the State policy as to discrimination, 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 marriage between the two races. Hitherto every subject embraced in the enumeration of rights contained in this bill has been considered as exclusively belong-ing 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 itsown 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 a law impairing the obligations of contracts; and as to crimes that no State shall pass an cxpost facto law; to money. that no State shall make anything but gold and silver a legal tender. But where can we find a Federal

Congress. It is clear that in the States which deny to persons whose rights are secured by the first section of the bill any of these 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 all those rights, that persons should commit a crime against the laws of the State -murder, arson, rape, or any other crime--murder, arson, rape, or any other crime-all protection or punishment through the courts of the State are taken away, and he can only be tried and punished in the Federal courts. How is the criminal to be tried if the offence is provided for and punished by Federal law? That law and not the State law is to govern. It is only when the offence does not hap-pen 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 `egislation, so far as the same is not inconsistent with the Consti-

tution and laws of the United States. So that over this vast domain of criminal juris prudence, provided by each State for the protection of its own citizens, and for the The question here naturally arises, from an absorption and assumption of power by

which can occur in time of peace. If it should prove otherwise. Congress can at any time amend those laws in such a man ner as, while subserving the public welfare. not to jeopard the rights, interests and liber

ties of the people. The seventh section provides that a fee of ten dollars shall be paid to each commis sioner in every case brought before him; and a fee of five dollars to his deputy or depu ties for each person he or they may arrest and take before any such commissioner, with such other fees as may be deemed rea-sonable 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 or not; but in case of conviction they are to be re-coverable from the defendant. It seems to me that, under the influence of such temptation, bad men might convert any law, however beneficent, into an instrument of persecution and fraud.

By the eighth section of the bill, the United States Courts, which sit only in one place for white citizens, must migrate—the place for white chizens, must migrate—the marshal and district attorney, and neces-sarily the clerk, although he is not men-tioned—to any part of the district, upon the order of the President, and there hold a Court, for the purpose of the more speedy arrest and trial of persons charged with a violation of this act; and there the judge and the officers of the Court must remain on the the officers of the Court must remain, on the order of the President, for the time desig-The ninth section authorizes the President, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be neces sary 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

measure over the vast region where it is intended to operate.

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 lived together under the relation of master and ave-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 new relation one being necessary to this the other.

the other. There will be a new adjustment, which both are deeply interested in making har-monious. Each as equal power in settling the forms, and if left to the laws that reguthe forms, and in left to the laws that regu-late capital and labor, it is confidently be-lieved that they will satisfactorily work out the problem. Capital, it is true, has mora intelligence, but labor is never so ignorant as not to understand its own interests, not to know its own value, and not to see that capital must pay that value. This bill frus-trates this adjustment; it intervenes be-tween 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 closed, 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 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 interfere with the municipal legisla

tion of the States, with the relations existing exclusively between a State and its citizens punishment of all persons who violate its tion of the States, with the relations existing criminal laws, Federal law, wherever it can be made to apply, displaces State law. or between inhabitants of the same State

with the Circuit Courts of the United States of all causes, civil and criminal, affecting persons who are denied, or cannot enforce in the courts or judicial tribunals of the State or locality where they may be. SEC. 4. That the district attorneys, mar shals and deputy marshals for the United States, the commissioners appointed by the

circuit and territorial courts of the United States, with powers of arresting, imprisoning or bailing offenders against the laws of the United State, the officers and agents of the Freedmen's Bureau, and every other officer who may be specially empowered by the President of the United States, shall be and they are hereby specially authorized and required, at the expense of the United States, to institute proceedings against all and every person who shall violate the pro-visions of this act, and cause him or them to be arrested and imprisoned or bailed. SEC. 5. That said Commissioners shall bave concurrent jurisdictilon with the Judges of the Circuit and District Courts of the United States and the Judges of the Su perior Courts of the Territories, severally and collectively, in term time and vacation, upon satisfactory proof being made, to issue warrants and precepts for arresting and bringing before them all offenders against the provisions of this act, and, on examina-

tion, to discharge, admit to bail or commit for trial, as the facts may warrant. SEC. 6 defines the duties of the Commis-sioners appointed under the bill. And that it be obligatory on all the United States marshals and deputy marshals to obey and execute all warrants under the provision of this bill. And imposes a penalty of \$1,000 on such marshals as shall refuse or neglect to perform the duties prescribed above. It further grants the Commissioners full power to carry out the provisions of this act SEC. 7 provides for the punishment of person or persons who shall knowingly or wilfully hinder or prevent any officers in their execution of any warrant or process issued under the act.

SEC. 8 prescribes the emoluments which shall accrue to all officers for their services in carrying ont the various provisions of the bill, and their mode of payment.

SEC. 9. That whenever the President of the United States shall have reason to believe that offences have been, or are likely to be, committed against the provisions of this act within any judicial district, it shall be lawful for him, in his discretion, to di-rect the Judge, Marshal and District Attor-ney of such district to attend at such place ney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons charged with a violation of this act, and it shall be the duty of every judge or other officer, when any such requisitions shall be received by him, to attend at the time and place and for the time therein designated. SEC. 10. That it shall be lawful for the President of the United States, or such per-sons as he may empower for that purpose to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act. SEC. 11. That upon all questions of law

arising in any cause under the provisions of this act, a final appeal may be taken to the Supreme Court of the United States. GEORGE PLOWMAN,

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