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VETO OF THE CIVIL RIGHTS BILL.

To the Senate of the United States :

CONSTITUTIONAL OBLIGATIONS.

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 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 originated, with my objections to its becoming a law.

FEDERAL CITIZENSHIP.

By the first section of the bill all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States. This provision comprehends the Chinese of the Pacific States, Indians subject to taxation, the people called Gipsies, as well as the entire race designated 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. It does not purpose to declare or confer any other right of citizenship 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 citizens 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 several excepted races as 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 are by virtue of the Constitution citizens 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 presents itself whether, when eleven of the thirty-six States are unrepresented in Congress 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 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 necessary that they should be declared citizens 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 of the process of naturalization, 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 evidence of their fitness to receive and to exercise the rights of citizens, as contemplated by the Constitution of the United States.

THE NEGRO RACE.

The bill, in effect, proposes a discrimination against a large number of intelligent, worthy and patriotic foreigners, and in favor 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 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 descent born 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 contracts, to sue, be parties and give evidence; to inherit, lease, purchase, 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 penalties 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 policy exclusively affecting the people of each State, it has frequently been thought expedient to discriminate between the two races.

STATE ENACTMENTS.

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 slaveholding States; and when not absolutely contrary to law, they are revolting, and regarded as an offence against 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 forbidden to intermarry with the blacks, the blacks can only make such contracts as the whites themselves are allowed to make, and therefore 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 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.

FEDERAL RESTRAINTS.

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 *ex post 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 to most of them, between aliens and citizens, between artificial persons, called corporations, and 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 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 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 juror or as a judge, to hold any office, and finally to vote, in every State and territory 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 regulations for them.

DISCRIMINATIVE PROTECTION.

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 preceding section it declares that "any person who, under the color of the law, statute, 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 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 be deemed guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both in the 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 attempt to put them in execution. It means an official offense, not a common crime committed against law upon the person or property of the black man.—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 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 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 tribunals, and there 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 unconstitutional; if you refuse, under the prohibition 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 to the negro, your error of judgment, however conscientious, 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 doubtful constitutionality.

NEEDLESS PROVISION.

In the next place this provision of the bill seems to be unnecessary, as adequate judicial 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 preservation 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 respect not only anomalous, but unconstitutional, for the Constitution guaranties 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.

LEGAL JURISDICTION.

The third section gives the District Courts of the United States exclusive "cognizances 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 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 by this third section, for it makes clear what kind of denial 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 tribunals of the State." It stands, therefore, clear of doubt that the offense and penalties provided in the second section are intended for the State judge, who, in the clear exercise of his function as a judge, not acting ministerially but judicially, shall decide contrary to this Federal law.

In other words, when a State judge, acting upon a 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 between 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 imprisonment. The legislative department of the Government of the United States thus takes from the judicial department of the States the sacred and exclusive duty of judicial decision, and converts the State judge into a more ministerial officer, bound to decided according to the will of Congress.

PERSONAL RIGHTS IN THE STATES.

It is clear that in the States which deny to persons whose rights are secured by the first section of the bill any one 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 person should commit a crime against the laws of the State, 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 offense is provided for and punished by Federal law, that law and not the State law is to govern.

FEDERAL TRIBUNALS.

It 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 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.

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, that laws of the United States, and treaties made or which shall be made under authority; to all cases affecting 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 two or more States; between a State and citizens of another State; 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 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 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 rebellion. 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 punishment for crime, whereof the party shall have been duly convicted, 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 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 of 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.

OFFICERS.

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 President of the United States. It also authorizes 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 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 processes 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 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 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.

OUR LAND AND NAVAL FORCES.

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. If it should prove otherwise Congress can at any time amend those laws in such a manner as, while subserving the public welfare, not to jeopardize the rights, interests and liberties of the people.

EXORBITANT FEES.

The seventh section provides that a fee of ten dollars shall be paid to each commissioner in every case brought before him, and a fee of five dollars 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 or not; but in case of conviction they are to be recoverable 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.

MIGRATION OF OFFICERS.

By the eighth section of the bill, the U. States Courts, which sit only in one place for white citizens, must migrate, the marshal and district attorney, and necessarily the clerk, 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 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 order of the President, for the time designated. 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 necessary to prevent the violation and enforce the due execution of this act. This language seems to imply an important military force, that is always to be at hand, and whose only business is to be the the enforcement of this measure over the vast region where it is intended to operate.

ITS EVIL EFFECTS.

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 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.

NEW ADJUSTMENTS.

There will be a new adjustment, which both are deeply interested in making harmonious. Each has equal power in settling 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 know its own value, and not to see that capital must pay that value.

This bill frustrates this adjustment; it intervenes betwen capital and labor, and attempts to settle questions of political economy through the agency of numerous officials, whose interest it will be to ferment 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.

MUNICIPAL LEGISLATION.

They interfere with the municipal legislation of the States, with the relations existing exclusively 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 barriers which preserve the rights of the States. It is another step or rather stride towards centralization, and the concentration of all legislative power 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.

SLAVERY ABOLISHED.

My lamented predecessor, in his proclamation of the 1st 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 Executive Government of the United States, including the military and naval authorities thereof, would recognize and maintain the freedom of such persons. The guaranty has been rendered especially obligatory and sacred by the amendment of the Constitution abolishing slavery thro' out 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.

RIGHTS OF FREEDMEN.

Entertaining these sentiments, it only remains for me to say that I will cheerfully 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 throughout the United States by judicial process, under 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 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.

Washington, D. C., March 27, 1866.

Senator Buckalew's Speech.

Owing to its great length we are unable to lay before our readers the lengthy and able speech of Senator Buckalew, which was delivered in the Senate on the 21st ult., upon the representation amendment to the Constitution. Mr. B. covers the whole ground upon the questions of representation, reconstruction, and amendments to the Constitution, in the most lucid, exhaustive statesmanlike manner. The speech will prove a most valuable contribution to Democratic literature. We may allude to one feature of it, not heretofore touched upon in Congress, which will be found both novel and startling, viz—the preponderance of political power wielded by the New England States.

According to the census of 1860 the six New England States, represented in the Senate by twelve members, had a population of 3,135,283—the ratio being 261,273 inhabitants for one Senator. The eighteen Central and Western States, (including West Virginia,) with thirty six Senators, had a population of 19,259,129—ratio 534,976. The eleven Southern States, with twenty two Senators, had 8,753,634 inhabitants—the ratio being 397,892. The total population of the country was 31,148,064—making the common ratio 444,972. Thus the ratio for a Senator stands as follows:

For the New England States	261,273
For Central and Western States	534,976
For Southern States	397,892
Common ratio	444,972

Deducting the New England ratio from the common ratio, a deficiency of 183,699 inhabitants upon each Senator, is shown in the case of that section; and, upon her twelve Senators, the deficiency amounts to 2,209,388! In other words, New England has a representation in the Senate for nearly two and a quarter million persons who are actually located in the Central and Western States!

The inequality of representation is further shown by comparing the population of several States, as follows:

Population of the six New England States	3,135,283
Population of Pennsylvania,	2,906,215
Population of New York,	3,880,735

And yet New York, with a population greater than the whole six Yankee States, has but two Senators to New England's twelve! Pennsylvania, with nearly an equal population, bears the same inequality!

We have not space to follow Mr. Buckalew in his argument and deductions from these facts, but we hope our readers will not fail to peruse that portion of his speech carefully. It furnishes much food for thought, and shows how, with that great inequality prevailing, New England has ruled the Senate branch of legislation for years—monopolizing, not only the chairmanship of the body but the chairmanships and power of the standing committees. The other portions of this great speech are equally interesting, lucid and effective; and, taken as a whole, our Senator has in it made ample amends for his previous reticence. One such speech is worth a session of "cross fire." Let it be read and circulated.

A Righteous Debt Paid in Full.

Some thirty five years ago, St. Peter's Church in Bainbridge needing a bell, the members of that church and others raised a portion of the amount required for the purpose, and sent Hon. John C. Clark and Capt. John Newton, then of their village, and active men of the society, to Troy to make the purchase. While on the way they came across Hon. John G. McDowell, of Chemung county, and then a State Senator, and casually made known to him their errand, and that they had not funds enough to make payment in full. With characteristic liberality, Judge McDowell tendered them the amount needed, exacting only the promise that the bell should be tolled when he should pass away.

The bell was bought, elevated into its place in the tower of St. Peter's, and hung there for all of these years, calling worshippers to church, and communicants to the sacrament, and ringing merry peals for merry weddings; it has tolled for the dead, and tolled again at their burial. And so years have passed, until a few weeks ago, when Judge McDowell himself passed away, and the old bell which had told of so many deaths of those who had gathered at its bidding, and who are laid to rest within sound of its own echoings, tolled out mournfully and slow, as it spoke of his death, who had aided in its purchase, and who now sleeps his last sleep among the valleys and hills of his distant home.—*Chenango Telegraph.*