

M E S S A G E

FROM THE

PRÉSIDENT OF THE UNITED STATES,

RETURNING

Bill (S. No. 61) "*To protect all persons in the United States in their civil rights, and furnish the means of their vindication,*" with his objections there'o.

MARCH 27, 1866.—Read and ordered to be printed.

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 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.

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 Gypsies, 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 purport 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 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, 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 the present 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 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 prize, 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 bill, in effect, proposes a discrimination against large numbers of intelligent, worthy, and patriotic foreigners, and in favor of the negro, to whom, after long years of bondage, the avenues to 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 intrusts "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 in the United States." These rights are, "to make and enforce contracts, 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 person and property as is 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 other. 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 over matters exclusively affecting the people of each State, it has frequently been thought expedient to discriminate between the two races. 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 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 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 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 police 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 a law impairing the obligations of contracts; and, as to crimes, that no State shall pass an *ex post facto* law; and, as 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 natural 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 Congress repeal, in the same way, all State laws discriminating between the two races on the subjects 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 color or race, 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.

The object of the second section of the bill is to afford discriminating 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 color of any 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 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 offence—not a common crime committed against law upon the persons 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 the 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 the 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 law, 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 so likely to occur as to render it necessary at this time to adopt a measure of such doubtful constitutionality.

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 invading the immunities of legislators, 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 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 within 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 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 where they may be, any of the rights secured to them by the first section." 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 offence 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 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 mere ministerial officer, bound to decide according to the will of Congress.

It is clear that, in States which deny to persons whose rights are secured by the first section of the bill any one of those rights, all criminal and civil cases affecting them will, by the provisions 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 a State—murder, arson, rape, or any other crime—all protection and 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 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, whenever 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, the laws of the United States, and treaties made or which shall be made, under their 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 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 September 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 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 revive it by the people or the States. If, however, any such attempt shall be made, it will then become the duty of the general government to exercise any and all incidental powers necessary and proper to maintain inviolate this great constitutional law of freedom.

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

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 commission," "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 temptations 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, with the marshal and district attorney, (and necessarily with 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 officers of the court must remain, upon the order of the President, "for the time therein 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 a permanent 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 seem 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, there will be a new adjustment, which both are deeply interested in making harmonious. Each has equal power in settling the terms, 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 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 settle questions of political economy through the agency of numerous officials, whose interest it will be to foment discord between the two races, for 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. They 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 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 and 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 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 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. 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 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 that may be necessary for the protection 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.*

THIRTY-NINTH CONGRESS OF THE UNITED STATES OF AMERICA.

AT THE FIRST SESSION BEGUN AND HELD AT THE CITY OF WASHINGTON ON MONDAY, THE FOURTH DAY OF DECEMBER, ONE THOUSAND EIGHT HUNDRED AND SIXTY FIVE.

AN ACT to protect all persons in the United States in their civil rights, and furnish the means of their vindication.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, 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 States; and such citizens of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right in every State and Territory in the United States to make and enforce contracts, to sue, be parties, 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 subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

SEC. 2. *And be it further enacted,* 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 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.

SEC. 3. *And be it further enacted,* 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 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 any of the rights secured to them by the first section of this act; and if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any such person, for any cause whatsoever, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses, or wrongs done or committed by virtue or under color of authority derived from this act or the act establishing a bureau for the relief of freedmen and refugees, and all acts amendatory thereof, or for refusing to do any act upon the ground that it would be inconsistent with this act, such defendant shall have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the "Act relating to habeas corpus and regulating judicial proceedings in certain cases," approved March three, eighteen hundred and sixty-three, and all acts amendatory thereof. The

jurisdiction in civil and criminal matters hereby conferred on the district and circuit courts of the United States shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offences against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern said courts in the trial and disposition of such cause, and, if of a criminal nature, in the infliction of punishment on the party found guilty.

SEC. 4. *And be it further enacted,* That the district attorneys, marshals, and deputy marshals of 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 States, 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 provisions of this act, and cause him or them to be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States or territorial court as by this act has cognizance of the offence. And with a view to affording reasonable protection to all persons in their constitutional rights of equality before the law, without distinction of race or color, or previous condition of slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, and to the prompt discharge of the duties of this act, it shall be the duty of the circuit courts of the United States and the superior courts of the Territories of the United States, from time to time, to increase the number of commissioners, so as to afford a speedy and convenient means for the arrest and examination of persons charged with a violation of this act. And such commissioners are hereby authorized and required to exercise and discharge all the powers and duties conferred on them by this act, and the same duties with regard to offences created by this act, as they are authorized by law to exercise with regard to other offences against the laws of the United States.

SEC. 5. *And be it further enacted,* That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant or other process when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of the person upon whom the accused is alleged to have committed the offence. And the better to enable the said commissioners to execute their duties faithfully and efficiently, in conformity with the Constitution of the United States and the requirements of this act, they are hereby authorized and empowered, within their counties respectively, to appoint, in writing, under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties; and the persons so appointed to execute any warrant or process as aforesaid shall have authority to summon and call to their aid the bystanders or the posse comitatus of the proper county, or such portion 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, and to insure a faithful observance of the clause of the Constitution which prohibits slavery, in conformity with the provisions of this act; and said warrants shall run and

be executed by said officers anywhere in the State or Territory within which they are issued.

SEC. 6. *And be it further enacted,* That any person who shall knowingly and wilfully obstruct, hinder, or prevent any officer, or other person charged with the execution of any warrant or process issued under the provisions of this act, or any person or persons lawfully assisting him or them, from arresting any person for whose apprehension such warrant or process may have been issued, or shall rescue or attempt to rescue such person from the custody of the officer, other person or persons, or those lawfully assisting as aforesaid, when so arrested pursuant to the authority herein given and declared, or shall aid, abet, or assist any person so arrested as aforesaid, directly or indirectly, to escape from the custody of the officer or other person legally authorized as aforesaid, or shall harbor or conceal any person for whose arrest a warrant or process shall have been issued as aforesaid, so as to prevent his discovery and arrest after notice or knowledge of the fact that a warrant has been issued for the apprehension of such person, shall, for either of said offences, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the district court of the United States for the district in which said offence may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States.

SEC. 7. *And be it further enacted,* That the district attorneys, the marshals, their deputies, and the clerks of the said district and territorial courts shall be paid for their services the like fees as may be allowed to them for similar services in other cases; and in all cases where the proceedings are before a commissioner, he shall be entitled to a fee of ten dollars in full for his services in each case, inclusive of all services incident to such arrest and examination. The person or persons authorized to execute the process to be issued by such commissioners for the arrest of offenders against the provisions of this act shall be entitled to a fee of five dollars for each person he or they may arrest and take before any such commissioner as aforesaid, with such other fees as may be deemed reasonable by such commissioner for such other additional services as may be necessarily performed by him or them, such as attending at the examination, keeping the prisoner in custody, and providing him with food and lodging during his detention, and until the final determination of such commissioner, and in general for performing such other duties as may be required in the premises; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the treasury of the United States on the certificate of the judge of the district within which the arrest is made, and to be recoverable from the defendant as part of the judgment in case of conviction.

SEC. 8. *And be it further enacted,* 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 direct the judge, marshal, and district attorney 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 requisition shall be received by him, to attend at the place and for the time therein designated.

SEC. 9. *And be it further enacted,* That it shall be lawful for the President of the United States, 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.

SEC. 10. *And be it further enacted,* 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.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

LAFAYETTE S. FOSTER,

President of the Senate pro tem.

I certify that this act did originate in the Senate.

J. W. FORNEY,

Secretary.