

## PRESIDENT'S MESSAGE.

## THE ARMY BILL VETOED.

WASHINGTON, 29.—Following is the message of the President of the United States, returning, to the House of Representatives the bill entitled "an act making appropriations for the support of the army for the fiscal year ending June 30th, 1880, and for other purposes."

To the House of Representatives: I have maturely considered the important questions presented by the bill entitled "an act making appropriations for the support of the army for the fiscal year ending June 30th, 1880, and for other purposes," and I now return it to the House of Representatives, in which it originated with my objections to its approval. The bill provides in the usual form for the appropriations required for the support of the army during the next fiscal year. If it contained no other provisions it would receive my prompt approval. It includes, however, further legislation, which, attached as it is to appropriations which are requisite for the efficient performance of some of the most necessary duties of the government, involves questions of the gravest character. The sixth section of the bill is amendatory of a statute now in force in regard to the authority of the persons in the civil, military and naval service of the United States, at a place where any general or special election is held in any State. This statute was adopted February 25th, 1865, after a protracted debate in the Senate, and almost without opposition in the House of Representatives by the concurrent votes of both of the leading political parties of the country and became a law by the approval of President Lincoln. It was re-enacted in '74 in the Revised Statutes of the United States. Sections 2,002 and 5,528, which are as follows:

Section 2002.—No military or naval officer or other person engaged in the civil, military or naval service of the United States shall order, bring, keep, or have under his authority or control any troops or armed men at a place where any general or special election is held in any State, unless it be necessary to repel armed enemies of the United States or to keep the peace at the polls.

Section 5528.—Every officer of the army or navy or other person in the civil, military or naval service of the United States who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State unless such force be necessary to repel armed enemies of the United States, or to keep the peace at the polls, shall be fined not more than \$5,000 and suffer imprisonment at hard labor not less than three months nor more than five years.

The amendment proposed in this statute in the bill before me omits from both of the foregoing sections the words "or to keep the peace at the polls." The effect of the adoption of this amendment may be considered, first, upon the right of the United States government to use military force to keep the peace at elections for Members of Congress, and second, upon the right of government by the civil authority to protect these elections from violence and fraud. In addition to the sections of the statute above quoted the following provisions of law relating to the use of the military power at elections are now in force.

Section 2003. No officer of the army and navy of the United States shall prescribe or fix or attempt to prescribe or fix by proclamation, order or otherwise, the qualification of voters, or in any manner interfere with the freedom of any election in any State or with the exercise of the free rights of suffrage in any State.

Section 5,529. Every officer or other person in the military or naval service, who by force, threat, intimidation, order, advice or otherwise prevents or attempts to prevent any qualified voter of any State from freely exercising the right of suffrage at any general or special election in such State shall be fined not more than \$5,000 and imprisoned at hard labor not more than five years.

Sec. 5530. Every officer of the army or navy who prescribes or fixes, or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualification of voters at any election in any

State, shall be punished as provided in the preceding section.

Section 5531. Every officer or other person in the military or naval service who by force, threat, intimidation or otherwise, compels or attempts to compel any officer holding an election in any State, to receive a vote from a person not legally qualified to vote, or who imposes or attempts to impose any regulations for conducting any general or special election in any State, different from those prescribed by law, or who interferes in any manner with any officer of election in the discharge of his duty, shall be punished as prescribed in section 5,529.

Section 5,532.—Every person convicted of any of the offences specified in the five preceding sections shall in addition to the punishments therein severally prescribed, be disqualified from holding any office of honor, profit or trust under the United States, but nothing in those sections shall be construed to prevent any officer, soldier, sailor or marine from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

The foregoing enactments would seem to be sufficient to prevent military interference with elections, but the last congress, to remove all apprehension of such interference, added to this body of law section 15 of act entitled "An act making appropriation for the support of the army for the fiscal year ending June 30th, 1870, and for other purposes." Approved June 18th, 1877, which is as follows:

Section 15.—From and after the passage of this act it shall not be lawful to employ any part of the army as a *posse comitatus* or otherwise for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the constitution or by act of congress, and money appropriated by this act shall be used to pay any of the expenses incurred in the employment of any troops in violation of this section, and any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$10,000 or imprisonment not exceeding two years, or both such fine and imprisonment.

This act passed the Senate after full consideration without a single vote recorded against it on its final passage, and by a majority of more than two-thirds it was concurred in by the House of Representatives. The purpose of the section quoted was stated in the Senate by one of its supporters as follows: "Therefore, I hope without getting into any controversy about the past, but acting wisely for the future, that we shall take away the idea that the army can be used by a general or special deputy marshal, or any marshal merely for election purposes, or as a posse, ordering them about the polls, ordering them anywhere else where there is no election going on, to prevent disorders or suppress disturbances that should be suppressed by the peace officers of the State, or, if they must bring others to their aid, they should summon unorganized citizens and not summon officers and men of the army as a *posse comitatus* to quell disorders, and thus get up a feeling which will be disastrous to peace among the people of the country."

In the House of Representatives the object of the act of '78 was stated by the gentlemen who had it in charge in similar terms. He said, but these are all minor points and insignificant points compared with the great principle which was incorporated by the House in the bill in reference to the use of armed men in peace. The Senate had already included what they called and what we might accept as the principle but they had stricken out the penalty and had stricken out the word 'expressly' so that the army might be used in all cases where implied authority be interfered with. The House committee planted themselves firmly on the doctrine that rather than yield this fundamental principle for which for three years this House had struggled, they would allow the bill to fail, notwithstanding the reforms that we had secured, regarding these reforms of but little consequence alongside the great principle that the army of the United States in time of peace

should be under the control of congress and obedient to its law. After long and protracted negotiations the Senate committee have conceded that principle in all its length and breadth, including the penalty which the Senate had stricken out. We bring you back, therefore, a report, with the alteration of a single word, which lawyers assure me is proper to be made, restoring to this bill the principle for which we have contended so long, and which is so vital to secure the rights and liberties of the people. Thus have we this day secured to the people of this country the same great protection against the standing army which cost a struggle of 200 years to the Commons of England to secure for the British people."

From this brief review of the subject it sufficiently appears that under existing laws there can be no military interference with the elections. No case of such interference has in fact occurred since the passage of the act last referred to. No officer of the United States has appeared under orders at any place of election in any State. No complaint even of the presence of United States troops has been made in any quarter. It may therefore be confidently stated that there is no necessity for the enactment of section six of the bill before me to prevent the military interference at elections. The laws already in force are all that is required for that end, but that part of section six of this bill which is significant and vitally important, is the clause, which (if adopted) will deprive the civil authorities of the United States of all power to keep the peace at congressional elections. Congressional elections in every district in a very important sense, are justly a matter of political interest and concern throughout the whole country and each State. Every political party is entitled to a share of power which is conferred by a legal and constitutional suffrage. It is the right of every citizen possessing the qualifications prescribed by law to cast one unimpaired ballot and to have his ballot honestly counted so long as the exercise of this power and the employment of this right are common and equal practically as well as formally. Submission to suffrage will be accorded loyally and cheerfully, and the departments of the government will feel the true vigor of the popular will thus expressed.

Two provisions of the Constitution authorize legislation of congressional elections. Section four of article one of the Constitution declares the times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof, but Congress may, at any time, by law, make or alter such regulations except as to the places of choosing senators. The Fifteenth Amendment of the Constitution is as follows: "Section first. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude. Section second. The Congress shall have power to enforce this article by appropriate legislation."

The supreme court has held that this amendment invests citizens of the United States with a new constitutional right which is within the protecting power of Congress. That right the court declared to be exemption from discrimination in the exercise of the elective franchise on account of race, color or previous condition of servitude. The power of Congress to protect this right by appropriate legislation is expressly affirmed by the court. National legislation to provide safeguards for free and honest elections is necessary, as experience has shown, not only to secure the right to vote to the enfranchised race at the south, but also to prevent fraudulent voting in large cities of the north. Congress has therefore exercised the power conferred by the Constitution, and has enacted certain laws to prevent discrimination on account of race, color, or previous condition of servitude, and to punish fraud, violence and intimidation at federal elections. Attention is called to the following sections of the revised statutes of the United States, viz:

Section 2,004, which guarantees all citizens the right to vote without distinction on account of race or color or previous condition of servitude; sections 2,005 and 2,006, which guar-

antees to all citizens the equal opportunity, without discrimination, to perform all acts required by law as a prerequisite or qualification for voting; section 2,022, which authorizes the United States marshal and his deputies to keep peace and preserve order at federal elections; sections 2,024, which expressly authorizes the United States marshal and his deputies to summon a *posse comitatus* whenever they or any of them are forcibly resisted in the execution of their duties under the law and are prevented from executing their duties by violence; section 5522, which provides for the punishment of the crime of interfering with supervisors of election and deputy marshals in the discharge of their duties at elections of representatives in congress.

These are some of the laws on this subject which it is the duty of the Executive Department of the government to enforce. The intent and effect of the sixth section of this bill, is to prohibit all civil officers of the United States under penalty of fine and imprisonment, from employing any adequate civil force for this purpose at the place where their enforcement is most necessary, namely, at the places where congressional elections are held. Among the most valuable enactments to which I have referred are those which protect the supervisors of federal elections in the discharge of their duties at the polls. If the pending legislation should become law, there is no power vested in any officer of the government to protect from violence the officers of the United States engaged in the discharge of their duties. Their rights and duties under the law will remain, but the national government will be powerless to enforce its own statutes. The States may employ both the military and civil power to keep the peace and to enforce the laws at state elections. It is now proposed to deny to the United States even the necessary civil authority to protect national elections. No sufficient reason has been given for this discrimination in favor of the state and against the national authority. If well founded objections exist against the present national election laws, all good citizens should unite in their amendment. Laws providing safeguards for the elections should be impartial, just and efficient. They should, if possible, be so non-partisan and fair in their operation that the minority party out of power will have no just grounds to complain. The present laws have in practice unquestionably conduced to the prevention of fraud and violence at elections. In several of the states a number of different political parties have applied for safeguards, which they furnish. It is right and the duty of the national government to enact and enforce laws which will secure free and fair congressional elections. The laws now in force should not be repealed except in connection with the enactment of measures which will better accomplish that important end. Believing that section 6 of the bill before me will weaken, if it does not altogether take away the power of the national government to protect federal elections by civil authorities, I am forced to the conclusion it ought not to receive my approval. That section is, however, not presented to me as a separate and independent measure, but as has been stated, attached to the bill making the usual annual appropriations for the support of the army. It makes a vital change in the election laws of the country which is in no way connected with the use of the army. It prohibits, under heavy penalties, any person engaged in the civil service of the United States from having any force at a place of any election, prepared to preserve order, to make an arrest, to keep the peace or in any manner to enforce the laws. This is altogether foreign to the purpose of an army appropriation bill. The practice of tacking to an appropriation bill, a measure not pertinent to such a bill, did not prevail till more than 40 years after the adoption of the Constitution. It has become a common practice, which all parties when in power have adopted. Minor abuses and a great waste of public money have in this way crept into appropriation bills. The public opinion of the country is against it. The States which have recently adopted the Constitution have generally provided a remedy for the evil by enacting

that no law shall contain more than one subject which shall be plainly expressed in its title. The constitutions of more than half of the States contain, substantially, this provision. The public welfare will be promoted in many ways by a return to the early practice of the government and to the true principle of legislation which requires that every measure shall stand or fall, according to its own merits. If it were understood that to attach to an appropriation a measure irrelevant to the general object of the bill, would imperil and probably prevent its passage and approval, a valuable reform in parliamentary practice of Congress would be accomplished. The best justification that has been offered for attaching the irrelevant riders to the appropriation bill is that it is done for convenience sake to facilitate the passage of measures which are deemed expedient by all branches of the government which participate in legislation. It cannot be claimed there is any such reason for attaching this amendment of the election laws to the army appropriation bill. The history of the measure contradicts this assumption. A majority of the House of Representatives in the last Congress was in favor of the section to this bill. It was known that the majority of the Senate was opposed to it, and that as a separate measure it could not be adopted. It was attached to the army appropriation bill to compel the Senate to assent to it. It was plainly announced to the Senate that the army appropriation bill would not be allowed to pass unless the proposed amendments of the election laws were adopted with it. The Senate refused to assent to the bill on account of this irrelevant section. Congress, thereupon, adjourned without passing the appropriation bill for the army and the present extra session of the Forty-Sixth Congress became necessary to furnish means to carry on the government. The ground upon which the action of the House of Representatives is defended, has been distinctly stated by many of its advocates. A week before the close of the last session of congress the doctrine in question was stated by one of its ablest defenders as follows: "It is our duty to repeal these. It is not worth while to attempt to repeal except upon an appropriation bill. The republican Senate would not agree to, nor a republican president sign a bill for such a repeal. Whatever objection to legislation upon appropriation bills may be made in an ordinary case, does not apply where free elections and the liberties of the citizens are concerned. We have power to vote money. Let us annex conditions to it and insist upon a redress of grievance." By another distinguished member of the House it was said: "The right of the representatives of the people to withhold supplies is as old as English liberty. History records numerous instances where the commons feeling that the people were oppressed laws that the Lords would consent to repeal by ordinary methods of legislation, obtained redress at last by refusing appropriations unless accompanied by relief measures." That the question is of the greatest magnitude and new in this country, was raised by this course of proceeding and was fully recognized also by its defenders in the Senate. It was said by a distinguished Senator: "Perhaps no greater question, in the form we are brought to consider it, was ever considered by an American congress in time of peace, for it involves not only the merits and demerits of laws which the House bill proposes to repeal, but involves the rights, the privileges, the powers, the duties of the two branches of congress and of the President of the United States, a question whose importance can scarcely be estimated. It is a question that never yet has been brought sharply before Congress and the American people as it may be now. It is a question which, sooner or later, must be decided, and the decision must determine what are the powers of the House of Representatives under the Constitution and what is the duty of that House, in the view of the framers of that Constitution relating to its letter and its spirit. Mr. President, I should approach this question if I were in the best possible condition to speak and to argue to it with very grave diffidence and certainly with