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H.S. Cass
Jan 30

GOVERNOR WARD'S
VETO MESSAGE.

“A FURTHER SUPPLEMENT TO THE ACT FOR THE PUNISHMENT OF CRIMES.”

STATE OF NEW JERSEY, EXECUTIVE DEPARTMENT, }
TRENTON, January 30, 1867. }

To the Honorable Senate of the State of New Jersey:

GENTLEMEN:—I herewith return with my objections, Senate Bill, No. 15, entitled “A further supplement to the act entitled ‘An act for the Punishment of Crimes.’”

This bill is intended to repeal and to be a substitute for the second and third sections of the act now in force on the same subject, and entitled “A supplement to the act entitled ‘An act for the Punishment of Crimes,’” approved April 3, 1855.

The second section, so repealed, prohibits as a crime the giving or offering of any bribe to any member of the Senate or General Assembly, to influence his opinion, behavior or vote. It also prohibits as a crime, the acceptance of such bribe. The provisions of this second section appear to be substantially re-enacted in the first, second and third sections of the bill now proposed as a substitute. These three sections, standing by themselves, I entirely approve. The fourth and fifth sections, however, appear to me of so objectionable a character, that I am constrained to withhold my assent.

First.—The third section of the act now in force is, by the proposed bill, repealed, and at the same time no substitute or similar provision is enacted. This third section is intended to prohibit an

offence not apparently within the terms of any other section of the law, viz: the offence of giving or withholding a vote upon one legislative proceeding or measure in consideration of a vote to be given or withheld upon another. This offence is made by the third section now proposed to be repealed a misdemeanor, punishable by imprisonment or fine. It is evidently a mode of bribery more insidious and dangerous than the direct offering and acceptance of a gift. It induces, in fact, corrupt action on two matters or proceedings, while a direct pecuniary bribe operates, or may operate, but upon one. The section in question is intended to promote impartial action upon every legislative matter by itself, upon its merits, and unbiassed by agreements to vote for or against another, with which the matter to be acted on has no proper or legitimate connection. I can see no good reason why this third section should be repealed, and the corrupt practice it is designed to prohibit become exempted from express legal restraints.

Second.—The fourth section of the proposed bill provides that any person charged with either of the offences specified in the first or second sections thereof, may, if indicted and tried for such offence, be a witness on his own behalf on such trial. This is an innovation upon the established mode of procedure in criminal cases, which, if adopted at all, should be of general application. It may well be doubted, I think, if the prevention of crimes and the administration of justice would be aided, by allowing accused persons on their trial to testify for themselves. But, however this may be, I cannot assent to a law which confers upon the persons named in this bill, and indictments for the crimes it is intended to punish, privileges or rights not conferred upon others.

It does not appear why a Governor or a member of the Senate or Assembly when indicted for bribery in his office should have, or should expect, privileges in his defence not granted to those charged with no public confidence or trust. A distinction would thus be made hitherto unknown in our legal tribunals, and at variance with the recognized principle that all men are to be held "equal before the law."

The corruption of legislation by bribery is most dangerous to our republican institutions, and I see no reason why those guilty of that crime should be favored above all other criminals. Few of those who would take a bribe in violation of their oath would hesitate to take the oath that would rid them of the punishment.

Third—The fifth section of the proposed bill repeals the second

and third sections of the act now in force, and thereby exempts from punishment those persons, if any there be, who may have become guilty of the crimes which these sections prohibit. No reason appears why any person now liable to be punished for bribery under either of these sections should be exempted by the Legislature from the penalty of his crime. That this exemption is but incidental to and not the primary object of such repeal is a reason, I think, why the repeal, if made for the purpose of substituting other and similar provisions, should be more guarded in its terms and effect.

Fourth—The fifth section of the proposed bill further enacts “that all and every provision of the statute or common law within the purview of said second or third sections of this act be and the same are hereby repealed.”

A repeal so general and broad in its terms may include in its operations results and inconveniences not intended and not apparent from the bill. An indiscriminate abrogation of all adjudications heretofore made by our courts and included in the terms “common law,” by which bribery as a crime has been expounded or defined, seems not to be required to correct any existing error or to supply any existing defect in the law as it stands. If any specific correction is to be made or any defect to be supplied, legislative provision to that end may be readily made in such form that its precise scope and effect can be better seen and considered.

For the reasons above stated I have been constrained to withhold my assent from the bill, and do accordingly return it herewith.

Respectfully,

MARCUS L. WARD.

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