

Mr. Huntington said if the gentleman would vary his motion, so that the expence should be incurred by the State, he did not know but he should agree to it. There is one State (said he) in which every person is obliged to provide himself with arms and accoutrements—and no difficulty has resulted from the law—Penalties on default are exacted and collected—but this proposition will produce great inequalities—it will excite jealousies and discord between the governments—but if left to the States the officers will be more exact to prevent impositions on the particular State from which they receive their appointments.

Mr. Parker agreed to alter his motion agreeable to Mr. Huntington's idea.

Mr. Boudinot said that there did not appear to be any necessity for the amendment, as the bill makes provision for excepting persons who are unable to purchase arms, in case the state legislatures chuse to make such exceptions.

Mr. Giles said he was opposed to the motion on principle; but if that was not the case he should object to it in its present form as it was not full enough: He did not suppose that it was intended that the United States should make a present of the arms thus furnished—but the motion does not provide for their return, when not in use. His principal objection to the motion however arose from its being an improper interference with the authority of the state governments: They may, or may not comply with the law—if they should not, it would prove nugatory—and render the authority of the United States, contemptible. For these reasons, and others which had been advanced, he thought the amendment improper.

Mr. Bloodworth observed that as the militia was to be organized and disciplined under the authority of the United States, and to be employed for the general defence, whenever and wherever Congress should direct, it appeared but reasonable that those who were benefited by them, should be at the expence of arming them.

Mr. Sherman said it appeared to him, that by the Constitution, the United States were to be put to no expence about the militia, except when called into actual service. The clause is not so explicit as might have been wished; but it will be difficult to fix the construction mentioned by the gentleman from North Carolina. What relates to arming and disciplining means nothing more than a general regulation in respect to the arms and accoutrements—There are so few freemen in the United States who are not able to provide themselves arms and accoutrements, that any provision on the part of the United States is unnecessary and improper: He had no doubt that the people if left to themselves would provide such arms as are necessary, without inconvenience or complaint; but if they are furnished by the United States, the public Arsenals would soon be exhausted—and experience shews, that public property of this kind, from the careless manner in which many persons use it, is soon lost—The expence and inconvenience would, in his opinion, far overbalance any good that would be derived from such a provision.

Mr. Vining observed, that the greatest objection against the motion is, that it stops short in the regulation of the business: No provision, it is said, is made for the return of the arms to the public—and it gives a discretionary power to the officers to dispose of the property of the United States; but he conceived these difficulties were not beyond the reach of remedies; the wisdom of the house, he doubted not, would devise such as were adequate to the object. He asked by what means minors were to provide themselves with the requisite articles? Many of them are apprentices: If you put arms into their hands they will make good soldiers; but how are they to procure them? It is said, if they are supplied by the United States the property will be lost; if this is provided against, every objection may be obviated. He then offered an addition to the motion, providing for the return of the arms to the commanding officer.

The Chairman then stated the motion with the amendment.

Mr. Tucker observed, that the motion in its present form, differed from the original proposed by the gentleman from Virginia. He conceived the gentleman had no right to alter it, nor could it be done without a vote of the committee. He preferred the motion in its original state—for the United States may without doubt, furnish the arms—but he very much questioned their right to call on the individual States to do it.

Mr. Williamson was in favour of the question's being taken with the amendment admitted by Mr. Parker. He wished to know whether Congress meant to tax the individual states in this unusual manner. Perhaps as they had assumed the state debts upon this principle, or rather without any principle, they might think they had a right to call upon them to furnish quotas in proportion, this would be getting something for something—and not like the other measure, losing something for nothing.

Mr. Vining said he could not understand what

was meant by saying that the amendment was dictating to the states: What is the whole bill but dictating—a law that affects every individual, touches the whole community. With respect to the constitutionality of the measure, there can be no doubt—every grant of power to Congress necessarily implies a conveyance of every incidental power requisite to carry the grant into effect.

Mr. Wadsworth apologized for detaining the attention of the committee a moment, while he asked the gentlemen who favored the motion, what was the extent of their wishes?—The motion at first appeared to be in favor of poor men, who are unable to purchase a firelock; but now it seems, minors and apprentices are to be provided for—is there a man in this house who would wish to see so large a proportion of the community, perhaps one-third, armed by the United States, and liable to be disarmed by them? Nothing would tend more to excite suspicion, and rouse a jealousy dangerous to the union. With respect to apprentices, every man knew that they were liable to this tax, and they were taken under the idea of being provided for by their masters—as to minors, their parents or guardians would prefer furnishing them with arms themselves, to depending on the United States when they knew they were liable to having them reclaimed.

The question on Mr. Parker's motion was lost. On motion of Mr. Heister, a proviso was added to the section in the following words—"That every citizen so enrolled, and providing himself with the arms and accoutrements required as aforesaid, shall hold the same exempt from all executions, or suits for debt, or for the payment of taxes."

Mr. Fitzsimons moved to strike out the words "provide himself," and insert "shall be provided."

This motion was objected to by Messrs Boudinot, Huntington, Jackson, Partridge, Vining and Madison.—It was said that it would be destructive of the bill, as it would leave it optional with the states, or individuals, whether the militia should be armed or not.

This motion was lost by a great majority.—The second section comprises the characters that are to be exempted from enrollment or militia duty.

Mr. Madison moved to strike out that part which related to members of Congress, their officers and servants, attending either house—and to insert "members of the Senate and house of Representatives whilst travelling to, attending at, or returning from the sessions of Congress.—He saw no reason for a total exemption from militia service—exceptions in favor of the framers of laws ought not to be extended beyond what is evidently necessary.—The members of Congress during the recess are at liberty to pursue their ordinary avocations, and may participate in the duties and exercises of their fellow citizens.—They ought to bear a part in the burdens they lay on others, which may check an abuse of the powers with which they are vested.

Mr. Jackson observed that this alteration might interfere with the public interest—in cases of alarm or invasion, the members might be called to a great distance in the militia at the moment when their presence was required to attend the session of the legislature. It would be well therefore to consider whether their services in the militia would be of equal importance to the public interest, as their services in Congress.

Mr. Boudinot objected to the amendment—not that he would exempt Members of Congress from burdens imposed on their fellow-citizens—but the motion he conceived was inconsistent with this very idea. The bill provides that exempts shall pay a certain equivalent; it would be unjust to impose this equivalent, and compel the Members of Congress to turn out in the militia. He concluded by saying that he conceived the independence of the legislature was connected with this exemption.

Mr. Wadsworth said that he thought there was no necessity to exempt Members of Congress: If the Constitution did not grant them such a privilege, he doubted whether they could assume it by an act of their own: He was therefore for leaving this matter to the discretion of the state legislatures—no inconvenience would result if this was done.

Mr. Hartley was in favor of the exemptions being specified by act of Congress; and he conceived they had the plainest directions to follow, in the universal practice of all the state legislatures—and this practice was founded in the reason of things, the incompatibility of the duties; they are distinct in their natures, and cannot be exercised together.

Mr. Madison supported his motion, he considered it as important that the governors and the governed should feel their mutual relation to each other; on this principle he thought that no exemption should be allowed, except in cases where an attendance on militia duty, was incompatible with the performance of other duties; for these reasons he wished that the whole clause should be struck out—in cases of difficulty a court

martial would be competent to doing justice to the parties.

Mr. Giles followed Mr. Madison in a similar train of reasoning in respect to rulers sympathizing with the ruled in all public burthens; he adverted to the different plans of organizing the militia which had been contemplated by the committee, and the reasons which induced them to adopt that in the bill; with respect to the plan of selecting particular classes to form a militia, it could not in his opinion be done, but by enlistments, which was a mode that the freemen of America revolted from. He said that no insuperable difficulties would result from rendering all liable to be called upon. Should the clause be struck out, the equivalent mentioned in another part of the bill will be unnecessary, and the article may be expunged. He concluded by saying, that if it was thought proper that the Members of Congress should be exempted, it would be best that the exemptions should be made by the state legislatures.

Mr. Sherman said it was the practice of the several States to exempt their own legislatures, and the other descriptions of persons mentioned in the clause: He conceived a seat in the federal legislature, would equally entitle to an exemption: He was opposed to the amendment, tho he would agree to strike out the whole, and leave the business to the state legislatures.

Mr. Jackson observed that leaving the exemptions from militia duty, to the discretion of the state legislatures might be productive of great inequalities; besides it would not comport with the idea of the bill in the grand object of uniformity:—Some states might make great exceptions, others none at all—this would make the burthen very unequal on the whole, which would be palpably unjust.—The example of the state legislatures is sufficient said he to shew that some exemptions are agreeable to the ideas of the people—and the independence of the legislature being essentially concerned leave no room to doubt the propriety of the measure—he informed the committee that when they came to the clause specifying the sum proposed as an equivalent for personal service, he should move for an alteration.

Mr. Hartley observed that the constitution declares that the persons of members shall be privileged from arrest during their attendance on Congress—in going to and returning from the session; with a special reference to the independence of the legislature—he conceived that it would counteract the spirit of the constitution to render the members liable to be called on to discharge duties incompatible in their nature—on this principle also it would be in the power of a designing president, should such a character ever be elected, to prevent the members assembling by calling out individuals to attend military duties at the moment when their attendance would be necessary in Congress.—The states individually, as well as the parliament of Great-Britain have set us a good example in this respect.

Mr. Boudinot, agreed in sentiment with Mr. Hartley, that the independence of the members was an important object.—The ideas of the gentlemen from Virginia [Mr. Madison and Mr. Giles] that legislators ought to participate in the burthens imposed on others, ought never to be lost sight of—but in the present instance, the doctrine would be carried into practice—for at the end of every two years, the Members would revert to the mass of citizens, and feel in common with others the influence of the laws.—The business of legislation is more arduous and momentous than any other—and ought not to be impeded, or rendered liable to be frustrated by any other. This he thought would be the case by adopting the amendment.

Mr. Madison supposed nothing would be risked by the amendment, as the Constitution had sufficiently secured the independence of the members—He had not anticipated so much debate on the motion—He was satisfied in his own mind of its propriety—The possible cases which had been stated, did not in his opinion justify the violation of the great principle he had mentioned; but to simplify the question he would withdraw his motion, so far as only to propose to strike out from the exemptions, "the members of Congress."

Mr. Tucker said that it appeared to him that some general ideas on the subject of exemptions should be incorporated in the bill. If the committee descend to particulars they will find it extremely difficult to make such distinctions as are proper. He was opposed to leaving the exemptions to be made by the state governments—It might create difficulties, as some States might exempt their members, and others might not—These partial exemptions would be attended with great inconveniences; the Members may be necessarily engaged in making their arrangements to attend their duty in Congress, previous to the time of setting out for the seat of government, and be interrupted by being called to the field to attend militia duty. The number of persons it will be found eligible to exempt, will not be so great, as to render the defence of the United States precarious for want of their personal services in the militia. He concluded by observing that the