

CONGRESS.

PHILADELPHIA.

HOUSE OF REPRESENTATIVES,

TUESDAY, FEBRUARY 21, 1792.

IN COMMITTEE OF THE WHOLE.
On the Militia Bill.

[CONCLUDED.]

A MOTION by Mr. Fitzsimons, to exempt persons who are not able to arm and equip themselves, from any penalty on that account, while that disability continues, occasioned some debate.

Mr. Sumpter entered into a general consideration of the subject—He denied that Congress had any right to interfere with the regulations of the several states in respect to the militia—their whole power respects only the calling the militia into actual service, in cases of invasion, insurrection or rebellion—and when thus called into service, they may provide for the organizing and arranging them in companies, corps and battalions—and it is the duty of the general government then to provide them with the means of defence—but they have no right to say that the militia previous to being thus called out, shall be at the expence of arming themselves. He hoped the bill would take a different direction, and that Congress would not so far interfere in this business as to designate the persons who shall bear arms, and to say how they shall be armed.—It seems to be the opinion of some gentlemen, according to the observations which have fallen from them, that the militia service shall be imposed on a comparatively small part of the citizens; and this inequality is to be encreased by obliging those persons to be at the expence of arming themselves.—He hoped that such injustice would not take place.

Mr. Niles adverted to the constitution, observed that it appeared to him, that a provision for arming the militia was reserved to the states, so far as it respects the common defence—He considered the requisition in the bill as operating like a capitation tax; and this species of tax he observed, was to be assessed only in a certain way, agreeable to a particular clause in the constitution.—He concluded by moving that the clause in the bill which contained this provision for arming, should be struck out.

This motion was negated.

Mr. Fitzsimons withdrew his motion, which provided for a certificate from two justices of the peace—to admit a substitute, which provides that they shall be excused if in the judgment of the commissioned officers to whose company they belong, they are not able to furnish themselves.

This substitute was adopted.

Mr. Kitchell moved that the clause should be struck out, which provides that the calibers of the guns should be of one bore. He observed that this provision was unnecessary, and in fact impossible to be complied with.

Mr. Sumpter asked what was to be done with the arms which the militia now have in their hands, are they to be thrown away?—Besides, he thought the provision inconsistent with the actual state of the military force of the country, the laws for the regulation of which, contemplates the enrolment of rifle-men among the regular forces of the country—Adverting to the expence which would attend this provision, he observed it was almost totally impracticable to carry it into execution.—He hoped it would not be agreed to, as it would involve an enormous and unnecessary expence.

Mr. Murray offered some similar remarks—he did not conceive that the excellency of the militia of the United States consisted in their being armed all with muskets of the same bore. He did not consider the bill in the light that some gentlemen appeared to—it was in his opinion merely a provision to keep alive a military germ, that shall when occasion calls spring up and diffuse its influence among the people in such manner as to furnish the most competent means of defence.

Mr. Wadsworth objected to the motion—he said this was one of the very few good regulations left in the bill, and to strike out this would render the militia a fallacious resource of defence, and effectually destroy every idea of uniformity.

Mr. Kitchell's motion was negated.

The motion to expunge the exemptions was seconded by Mr. Dayton.

Mr. Boudinot opposed it—he urged in brief the several reasons which were offered on a former occasion in support of the exemptions.

Mr. Dayton said it appeared to him unreasonable to exempt persons from militia duty, and from paying an equivalent too who from their station in life are best qualified to pay those equivalents; it appeared to him to be unjust and impolitic.

Mr. J. Smith opposed the motion—he observed that the experience of the eastern States where the militia is on at least as respectable a footing as in any part of the union, was against the spirit of the motion—there various exemptions are

made—and the prejudices of the people were in favor of the practice—many exemptions are necessary and many characters in society cannot and ought not to be compelled to bear arms—ministers of the gospel, &c. To combat these prejudices, he said, would be little better than attacking a windmill.

Several other gentlemen spoke on the subject. The motion was finally negated.

The third section being read,

Mr. J. Smith moved that these words, after the word "companies—*In such manner as the President of the United States shall see proper to direct,*" should be struck out. He observed, that as the President of the United States has (by the Constitution) no command over the militia till they are called into actual service, he cannot with any propriety be invested with this power—it lays with the legislatures of the several states, said he, to make the provision requisite in this case.—The executives of the several states must be more competent to determine the number of regiments, &c. into which their respective militia's should be divided.

Mr. Lawrance said the constitution, by investing Congress with the power of organizing the militia, appears necessarily to have included the power in question.

Mr. Livermore said he was in favor of striking out the words, on two accounts—He did not know how the power could be exercised—and he was opposed to retaining phrases which, however sounding and pompous they may be, contained no meaning—this he conceived to be the case in respect to the words in question—For they propose to invest a power in the President, which, said he, I do not see how he can exercise; or if he can, certainly not with so much propriety as the legislatures of the several states.

Mr. Hillhouse was opposed to striking out the words—He said he could conceive of no disadvantage which would result from giving the President the power of making a uniform arrangement of the militia—It appeared to be necessary, in order to his being able to determine how to call them into service, should public exigencies require it, in such proportions and draughts as shall be most equal to the people, and most conducive to the public service.

Mr. Page observed, that it appeared necessary to retain the clause, in order to effecting the object of uniformity—for if the power is invested in fifteen different bodies, or individuals, it cannot be expected that they will ever agree in one uniform plan.—Nor did he conceive that this regulation would in the least interfere with the essential powers of the several states—He was as much averse as any man from abridging any of the powers of the several states, but this regulation would not interfere with those powers, in any manner whatever.

Mr. Seney was in favor of striking out—He thought it was a sufficient reason to reject the clause, that the President could not be supposed so competent to the business, as the authority of the several states.

Mr. Sumpter was in favor of striking out—The scope of his observations was, that the United States have power only to say how the militia shall be organized, but it must be left to the several states to carry the plan into execution.

Mr. Lawrance stated the difficulties which would result from want of uniformity, in case of the militia's being called into actual service.

Mr. Niles, observed that the relative boundaries of towns, states and districts, rendered the uniformity contended for, impracticable; and therefore the clause is nugatory—a great variety as to numbers, in the companies and regiments of the continental army, actually existed during the late war, and yet no difficulty occurred from that circumstance.

The motion for striking out was carried.

It was then moved to insert "in such manner as the legislatures of the respective states shall direct"—this was agreed to.

Mr. Gilman moved, that the clause in the 4th section, which provides that the Aids shall be taken from the line, and the words "with the rank of major," should be struck out.—He observed, that in the regular service, on the principles of economy this arrangement takes place—but he conceived this would be unnecessary in the militia, if not injurious to the service.

This amendment was agreed to.

The 6th section, which specifies the times of mustering and training the militia, says that the artillery, light infantry, troops of horse, &c. shall rendezvous four times a year, and the rest of the militia twice a year.

Mr. J. Smith rose to enquire the reason of the distinction between the companies.

Mr. Barnwell moved to add a proviso, authorizing the states to pass laws enjoining musters as often as they may see proper.

Mr. Boudinot answered Mr. J. Smith's enquiry—He said the object was to form a nursery of officers for the militia, whenever detachments shall be suddenly called into actual service.

Mr. J. Smith objected to Mr. Barnwell's proviso—He conceived that the states already fully possessed this power.

The proviso, after further debate, was negated.

SATURDAY, MARCH 31.

A bill, in addition to the act providing for the government of the territory North-West of the river Ohio, was twice read, and made the order of the day for Wednesday next.

A resolution for indemnifying the state of Maryland for a certain sum of money advanced to discharge a contract made by N. R. Moore, for the purchase of a number of horses for the service of the United States during the late war, was referred to a select committee.

A bill was reported by the committee to whom the petitions from the trustees of sundry academies had been referred, and read the first time.

A memorial and instructions from the legislature of the commonwealth of Massachusetts, respecting the assumption of the residue of the state debts, were read, and laid on the table.

Mr. W. Smith laid on the table a resolution of the two houses of the legislature of the state of South-Carolina, on the same subject.

The amendments of the Senate to the militia bill, were read—and on motion, ordered, that one hundred copies of the bill and the amendments, be printed for the use of the House.

In committee of the whole, on the report of the Secretary of the Treasury on the public debt.

The fifth resolution, in the following words, leaving out *September*, was agreed to, after considerable debate—33 to 25—viz.

That a subscription for a further loan in the debts of the individual states, be opened and continued to the first day of September next, not to exceed in the whole millions of dollars, in the proportions following, that is to say: In the debt of New-Hampshire, Massachusetts, Rhode-Island, Connecticut, New York, New-Jersey, Maryland, Virginia, North-Carolina, South-Carolina, Georgia.—Provided, That the interest on such loan shall not be payable before the day of : And provided, that when the sum to be assumed by any state, shall not be subscribed by the holders of any of the evidences in which the same is made receivable, the state shall not be entitled to receive interest on the residue.

The sixth and seventh resolutions were agreed to without a division.

The eighth resolution is in the following words—That the interest on so much of the domestic debt as has been or may be purchased for the United States, or as shall be paid into the Treasury, and so much of the sum appropriated for the payment of the interest on the foreign and domestic debt as shall be over and above what may be sufficient for the payment of such interest, shall be appropriated in the first place, to the purchase of that part of the public debt, which bears an interest of three per cent. per annum. And the part of the said debt, the interest whereof is deferred, until the said fund, with such additions as may be made to it, shall amount to two per centum of the public debt, bearing a present interest of six per cent. per ann. until the whole shall be redeemed. And thenceforth to be applied to the purchase or redemption of whatever part of the public debt may remain undischarged, until the whole shall be extinguished. The said funds to be applied to the purposes aforesaid, by the commissioners hereafter mentioned, under the approbation of the President of the United States.

This resolution being read, occasioned a debate till after 3 o'clock, when the committee rose without taking the final question, and the House adjourned.

MONDAY, APRIL 2.

The report of the committee on the Secretary of the Treasury's report, containing an account of the amount of the duties on imports and tonnage, also the amount of the exports from the United States, which proposes that the abstracts of the amounts of the duties, and of the exports should be published—also, that the Secretary should be directed to report to the House, the quantities and value of the exports of the respective states, any thing in a former resolution to the contrary, notwithstanding, was taken into consideration, and agreed to.

A message from the President of the United States, by Mr. Secretary Lear, informed the House that the President has approved and signed An act for finishing the light house on Bald-Head, at the mouth of Cape Fear river.

A message from the Senate, by Mr. Secretary Otis, informed the House that the President of the United States has approved and signed the bill, entitled, an act to establish a Mint, and to regulate the coins of the United States.

In committee of the whole, on the Secretary of the Treasury's report on the public debt.—The 8th resolution was read, and taken into consideration.

Mr. Madison moved an alteration in this resolution, by striking out the words which designate