The Columbian
AND
Bloomsburg Democrat.
IS PUBLISHED EVERY FRIDAY MORNING
IN THE COLUMBIAN BUILDING NEAR THE
COURT HOUSE, BLOOMSBURG, PA., BY
CHARLES B. BROCKWAY,
EDITOR AND PROPRIETOR.

Terms--Two Dollars a Year payable in advance.

JOB PRINTING
of all descriptions executed with neatness and dispatch at reasonable rates.

The Columbian.

VOLUME VI.---NO 12. BLOOMSBURG, PA., FRIDAY, MARCH 22, 1872. COL. DEM.---VOL. XXXVI--NO. 5.

RATES OF ADVERTISING.

One inch, (twelve lines or its equivalent in Nonpareil type) one or two insertions, $1.50 three insertions, $2.00

SPACE.	1M.	2M.	3M.	6M.	1Y.
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SPEECH
OF
CHAS. B. BROCKWAY,
ON THE
MILITARY BILL.

House of Representatives, March 7, 1872.

The House having under consideration House Bill, No. 55, an act for the reorganization, regulation and discipline of the National Guard of Pennsylvania, and to provide for the enrollment of the militia.

Mr. Brockway said:

Mr. Chairman, years ago I learned that men aspired to be popular rather than just—that they will more frequently follow the dictates of others than they will the reasoning of their own minds. In regard to the bill before us I am afraid that many will favor it because it is demanded by certain military organizations rather than because it will subserve the interests of the four millions of people in this State. When John Randolph returned from a visit to England he was asked his opinion as to the government of that nation. He said he had examined the subject; it was not the King, nor the House of Lords, nor the House of Commons, *but it was the fifty thousand bayonets which were there!*

I hold that standing armies are repulsive in republics, and that the system is contrary to the traditions of our Government. The policy of our fathers was to keep the number down to the lowest practicable point, and it has been the constant practice of our State not to create a standing army. I believe that a large military organization incites war; it begets a spirit of conquest. Nations with a grand military establishment find that they have immense power, and they are constantly tempted to overthrow their weaker neighbors because they have this element of strength. Were it not for the military resources of the United States to-day, there would not be that constant itching for San Domingo, Cuba, Mexico and Canada, with whom we should be at peace. Let annexation come, if it is to come at all, by peaceable means, and not by force and coercion. Further than that, a standing army tends to demoralize our citizens. A man accustomed to military rule is very apt to forget the teachings of civil law; he forgets the rights of his neighbor, and becomes a tool in the hands of weak or corrupt rulers. It places power in the hands of those in authority, and the standing army always becomes the backbone of the tyrant. In Mexico and Spanish America nothing is more common than a rebellion. In some places these occur every few weeks. Why? They have a standing army there which can be used by one faction or the other; and the one which secures the services of the generals inaugurates a successful rebellion. As proposed by this bill, they are sworn to obey the orders of the commander-in-chief.

It is here proposed to create a standing army of twenty thousand men, whose establishment is unlimited—an army not to obey the mandates of the law, but the orders of the one man who may be in the Executive chair. Not only the commands of this one man, but that army must obey the commands of others, officers from the general down to the sergeant and corporal, whatever those orders may be, and to this they are solemnly sworn.

France, previous to the last war in Europe, had perhaps the most magnificent standing army in the world. It was the constant boast in the Crimea and elsewhere that no soldiery stood higher than the imperial army of France, and yet the citizen soldiery of Germany, interior in numbers, gained not only the initial battles of the late war, but marched to the centre of that empire, and captured imperial Paris itself, and to-day she is a mere wreck, notwithstanding her large standing army of a very few years ago.

The distinction, I make, is this: The regular militia, as designated in the Constitution, is necessary in a free government; but militia means the organization of the entire people. This is the sense of the word in the Declaration of Independence and in the Constitution.

In support of this position I will quote article II of the Amendments to the Constitution, *Small's Hand Book*, page 28: "A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed." Not one section or class of people, but the entire people.

I have been informed that, by a decision of the courts of Philadelphia, under the provisions of this clause of the Constitution a person has even the right to carry concealed weapons, contrary to the general opinion on that subject.

Again, section twenty-one of the Constitution of Pennsylvania says: "That the right of the citizens to bear arms in defense of themselves and the State, shall not be questioned." These quotations all point to one fact, and sustain the distinction I would make between a militia and a standing army, as proposed by this bill.

The right of the people to bear arms shall not be infringed, yet this bill will take away indirectly the right of the people to bear arms—will build up a class and set it apart from the rest of the community, by giving it especial and extraordinary privileges and then tax the balance in order to keep that class up.

The Constitution of our State says that the freemen of this Commonwealth shall be armed and equipped for its defense. Not that the privileges shall be given to one special class, but that the people of the entire State shall have this privilege, whenever they see fit to organize, no matter where they may be.

The method of taxation proposed in this bill is also radically defective. The basis is population and not property. Our mining districts would be heavily taxed because of their large arms bearing population, while wealthy districts in Philadelphia would be comparatively exempt. The poor counties in the State must be taxed to support organizations in other localities in which they have no interest and from which they can derive no benefit. Even minors—those between the ages of eighteen and twenty-one—are included in the basis, although no direct taxes could be collected from them. The fewer able bodied men there are in a locality, and the greater its wealth, the less becomes its burden.

I also dislike the name. It is a Pennsylvania institution, if anything, and yet the bantling is christened "The National Guard of the State of Pennsylvania." It should be called the State Guard. Why call it a "National Guard?" I see that the word "National" runs all through the bill and that the mode of discipline and tactics shall be like that of the Federal troops. It looks as if we were creating a National force, to be placed under the control of our military President, and giving him the power to call it into action any moment. You might as well strike out the word Pennsylvania altogether.

Then, sir, these men are to be sworn in for an unlimited time. The original bill made the enlistment five years. That clause is stricken out. In effect the men are mustered into the United States service for life, and to all intents and purposes they are regular troops, to be called upon whenever the President needs them.

Again, one of the most objectionable features of the bill is that already alluded to by the gentleman from Delaware [Mr. COOPER]. There is no exemption from the taxation proposed to those who served during the war, and men who may have fought from the battle of the first Bull Run until the last gun was fired on the Appomattox, must pay this tax to support these men in their holiday pageantry, who yet in time of sore need, would not be the first to rush to the defense of the nation.

Mr. BALLANTINE. The gentleman spoke of the German soldier in the war with France. Is not every citizen of Germany liable to military service?

Mr. BROCKWAY. I am not on that subject now. My argument now is the injustice of this act in relation to those who fought in the armies of the United States during the four years of the rebellion, and compelling them to pay tax to keep up a lot of carpet-knight soldiers in this State.

It seems to me that if any class of men are entitled to exemption it is they who voluntarily went into the army and performed duty at the risk of life, whereas the bulk of the men comprised in these organizations never smelled gunpowder. In fact, the bill exempts from service the office holders, but leaves the soldiers of the late war subject to future military duty. Then the bill prescribes that men shall pay this tax *per capita*.

Mr. MAGEE. The gentleman says he is going to explain the provisions of the bill as they follow each other.

Mr. BROCKWAY. I did not say so.

Mr. MAGEE. Then I will explain that there is a provision in regard to tax. The tax is to be levied at the rate of fifty cents upon each man liable to military duty, and is not *per capita*. If the gentleman reads the bill carefully, he will find that out.

Mr. BROCKWAY. The basis of the tax is *per capita* fifty cents for every person enrolled; and I may here state as a very singular fact that although the State has increased in population, we have fifty thousand men less enrolled than a dozen years ago. Therefore this is an unjust basis.

Section three of the bill provides that the commissioners of a county may add to or strike from the list names returned by the assessor, yet section five gives the same power to three officers appointed by the division commander for each county. This creates two revisory boards, independent of each other, acting separately, and as a necessary result would soon lead to a conflict of authority.

I contend that the power given by section five is too great to be exercised by any officers, especially considering the manner of their appointment. The persons to exercise that power should be the civil officers—men acquainted with the people. It should not be exercised by perhaps three striplings who may not have attained the age of twenty-one years, and who certainly would not be qualified to pass upon the enrollment for the entire county, because this bill says their conclusion is final.

I have already alluded to the fact that there has been an unequal distribution of the military of the State, and that the National Guard will be concentrated mainly in a few districts. For example, by reference to a communication from the Adjutant General, I find there is no organization in Bucks, Monroe, Pike, Wayne, Cameron, Potter, Elk, Forest, Mifflin, Fulton, Fayette, Greene and Sullivan; and that in many other counties there is but a single company. Yet Dauphin county has twelve, and Luzerne thirty, while Philadelphia has thirteen regiments.

In the Fourth division there are only five companies, in the Twelfth division there are but two, in the Thirteenth but three, and the same number in the Nineteenth. Yet in those portions of the State they must pay their *pro rata* of the tax to keep up these organizations. I am sorry that in this respect the committee did not adopt the law of New Jersey. The militia of New Jersey is distributed equally through the State, each county being entitled to at least one company. There is something fair and equitable in such a distribution, because it gives the men of each county an opportunity to go into these organizations if they so desire.

A further objection which I make is the size of this standing army. Twenty thousand is the number, and the power is given to the Governor, without restraint, to increase it indefinitely in case of war, insurrection, invasion, etc.; and who is to be the judge of that? Why, the Governor himself. I can understand the object of this bill when I take into consideration the Governor's speech at the Printer's banquet given in this city some time ago; I can understand why our gory Governor is willing to be placed at the head of this organization, with such immense powers, after his declaration that this State could whip the whole of England; that he can leave the Executive chair to be filled by Mr. Ratan, the Speaker of the Senate, while he goes to vanquish the inhabitants of "perfidious Albion."

Why, this army will be only ten thousand less than the army of the United States, which now numbers only thirty thousand men, and previous to the war numbered only fifteen thousand.

Gentleman say this is a necessity on account of the Scranton riots. Just in proportion as they live near Scranton do they understand what those riots were. I venture to say that if there had been a dozen policemen there with any backbone no riot would ever have been inaugurated.

I confess that my name figures in the Adjutant General's report as major and judge advocate of the Ninth division, in which Scranton is located, although I did not figure in that engagement, and consequently drew no pay.

But it must have been a magnificent sight to have visited Scranton and found quartered at the Lackawanna Hotel a major general and staff, consisting of an assistant adjutant general, a division inspector, surgeon in chief, division quartermaster, division commissary, division paymaster and two aide-de-camp, three lieutenant colonels and five majors, whose bill for the expedition amounted to three thousand eight hundred and sixty-six dollars and sixty-five cents, while that of the regimental staff was one thousand four hundred and twenty-one dollars and sixty-six cents. They had there all the paraphernalia of an army, the large proportion of which was officers. Of course that army was fully officered, and we find what it cost when a bill was presented here for thirty-eight thousand dollars as the expense. Instead of raising armies to suppress riots you had better remove the cause, by the adoption of fair, just and equitable laws, which will protect the masses. Military rule is not congenial to American institutions, and just dealing is better than bayonet charges. Cromwell tried it in Ireland two hundred years ago, and to-day there is not an Irishman but who nurses up revenge against England for the act.

The establishment which it is proposed shall be raised is nearly as large as that of New York. The militia of that State numbers twenty-two thousand three hundred and seven men, as I find by reference to the Adjutant General's army report for 1871. In reference to encampments he says: "During the past year there have been several encampments of organizations of the National Guard. I am impressed with the belief that the advantages derived in the short time that can be devoted to these encampments are more than counterbalanced by the great expense to the State which attends them, and the inconvenience occasioned by the loss of time and consequent injury to business to which the officers and men are subjected by reason of their absence from their regular pursuits for several consecutive days."

The following communication in regard to the military organization of that State may also prove of interest:

GENERAL HEADQUARTERS,
STATE OF NEW YORK
ADJUTANT GENERAL'S OFFICE,
ALBANY, January 22, 1872.

SIR: I am directed by His Excellency, Governor Hoffman, to acknowledge the receipt of your communication of the 19th instant, making inquiry concerning militia law of this State.

In reply I have the honor to inform you that copies of the military code of the State of New York and the report of the Adjutant General for 1871 have been forwarded to your address by express.

The report of the Adjutant General for 1872 has not yet been printed, but the condition of the National Guard in number of organizations, aggregate strength (about twenty-four thousand,) &c., is substantially the same as shown in the report sent you.

The Legislature appropriated ($200,000) two hundred thousand dollars annually from the general fund for the support of our National Guard and the expenses of the military departments. It has been found necessary for the past few years to ask for a small additional appropriation, but it is hoped that in the future the expenditures will be confined to the amount above stated.

Should you require any further information it will be cheerfully furnished.

I am, sir, very respectfully,
J. B. STONEHOUSE,
Col. and Ass't. Adjt. General.

Hon. C. B. Brockway, House of Representatives, Harrisburg, Pa.

The main point is the information that it costs the State of New York directly over two hundred thousand dollars for the number of men they have got, while they do not have encampments as many days as we propose to have.

I would also ask the clerk to read a communication from the Adjutant General of New Jersey.

The clerk then read the following:

STATE OF NEW JERSEY,
OFFICE OF ADJUTANT GENERAL,
TRENTON, Jan. 26, 1872.

Hon. C. B. Brockway, House of Representatives, Harrisburg, Pa.:

DEAR SIR.—Yours of 19th, addressed to Governor Parker, has been referred to me for reply. I enclose you a copy of our National Guard law, with supplement thereto. For many years prior to 1869 we had three special militia laws in force, old law modeled from acts of Congress, State Guard law and Rifle Corps act. In 1867, when I entered this office, we had some three thousand two hundred officers in commission and about one thousand four hundred enlisted men. We were in about as bad a shape as could be. After two years' application all militia laws, rifle corps acts, &c., were wiped out, and on the united approval of all the military men of much rank in the State, the present law was framed and we commenced anew. An inspection of every company in the State was made whose headquarters were on a railroad (and therefore could be of some use,) and those who could not pass as good, live companies were disbanded. That left us about thirty companies. The law then restricted us to sixty companies of infantry; one company to be reserved for each county. For three years the force has been full fifty-two companies, and eight vacancies reserved for eight counties. A rigid inspection of every company is held twice a year, and if it is not passed it is promptly disbanded. About four companies meet this fate every year and a dozen are always ready to take their places. Section 39 gives each company five hundred dollars per annum, paid from the State Treasury, and the comptroller always sends in an estimate of the expense of the National Guard for the coming year as thirty thousand dollars. We have no direct tax, for it is difficult and expensive to collect out of the cities and in our Quaker counties. The features of our law and our force are compactness, few officers, at least forty active men to each company, companies, regiments and brigades easy of centralization. Personally, I consider our law as good, if not better than any yet framed, and am quite sure it is efficient and inexpensive. Let me instance two events to prove efficiency, promptness, and good organization. On the 12th of July, Governor Randolph, in Jersey City, telegraphed to Newark for the Second Regiment. The distance is about ten miles by railroad. The alarm bell in Newark struck two for the number of the regiment; they gathered at the armory; double-quicked to the depot, five squares; took possession of a train and reported in Jersey City in forty-three minutes. At the inauguration of Governor Parker, on the 16th inst., the military force, although coming from Camden and Jersey City, and different parts of the State, marched on time; disbanded for one hour and a half; formed again, three minutes late, and passed the reviewing stand on time. We work for promptness and efficiency.

I have very hurriedly thrown together these few facts to show you how our force is worked. I will be happy to still further explain when called upon.

Yours respectfully,
WILLIAM S. STRYKER,
Adjt. Gen'l of N. J.

The average cost per soldier in the United States is about one thousand dollars per annum. Taking that as a basis—and they meet only eight days in a year—include also the costs of courts martial and other expenses authorized by this bill, and it will make a sum greater than that which has been expended in the State of New York. The courts martial provided for here are exceedingly expensive, and in relation to that provision, I would ask the particular attention of the gentlemen of the Military Committee.

Section forty-sixth provides that "the number of men constituting courts martial shall be as provided for in the army of the United States, and at least two members of the court, if practicable, shall be of equal rank with the officer tried. Officers detailed to serve on courts martial and courts of inquiry shall receive the same pay as provided by regulations for like service in the United States army." That is at the rate, say of a captain of artillery, one hundred and eighteen dollars per month that of a brigadier general about three hundred dollars a month and so on through all the gradations—the officers getting the same pay as is provided for officers of the United States army. On the contrary, in New York they establish a regular per diem, which saves less than one half the expense proposed by this section.

But here is a singular provision that "witnesses shall receive the same pay per day and for traveling fees as before courts of common law jurisdiction, on the certificate of the judge advocate of such service, transmitted through the intermediate headquarters to the Adjutant General."

Now, I suppose, there are twenty different rates of *per diem* for witnesses in this Commonwealth. The different counties have different rates, and which one will you take? Will you take the one in Luzerne or Columbia county?

Section forty-four provides in regard to pay also, that when these men are upon duty non-commissioned officers shall receive one dollar and twenty-five cents, and musicians and privates one dollar per day, and all commissioner officers the same pay as is recognized in the United States army.

Again, section eighty provides that "all necessary expenses incurred by commanding officers to carry out the provisions of this act shall be paid by the State, in the same manner in which other military accounts are paid." Now, who is to be the judge whether these expenses are necessary? These major generals can go around contracting any expenses they may deem necessary, and the State has to foot the bill. There is no restraint, and these major generals can make a year's job of it. Is it not a fine position? I am not surprised that the situation of Major General in the militia is much more eagerly sought for than the position of private was during the war.

I believe that the three hundred thousand dollars which undoubtedly will be required had better be added to our common school fund, or appropriated to the soldiers' orphans of the late war. The more you educate the people the less necessity you will have for war. It is better for the people of this Commonwealth to put this money into an educational fund, if you have it to spare, than to give it to men who wish to go out on Fourth of July excursions and play soldier.

Again, there are several instances in this bill as to the power of the civil authorities and that of the military. These have been jumbled together, and it is impossible to tell where the courts can take hold and act, and where the military can. There is a direct conflict in several provisions in that particular. I will call attention to section thirty, and I venture to say no gentleman can make sense of the last clause. If any of the committee can tell what it means, I would be much obliged to him:

"When the division commander certifies that he has, either before or after receiving his commission, removed his residence out of the bounds of his command to so great a distance that, in the opinion of his commanding officer, it is inconvenient to exercise his command, when such commander certifies that he has been absent from his command more than three months without leave, upon address of both houses of the Legislature, to the Governor, upon sentence of court martial, after trial according to law."

That is the closing part of the section and if any gentleman can extract a single idea of what a court martial, or an address to both houses of the Legislature has to do with a division commander getting outside the bounds of his division, I would like to have him explain.

Section 59 reads as follows:

"The president of every court martial, or court of inquiry, and also the judge advocate, shall have power to administer the usual oath to witnesses, and the president shall have the same power to preserve order, to compel the attendance of witnesses by attachment and to have the testimony of such witnesses as cannot be reasonably produced at the trial taken by commission, as in courts of common law jurisdiction; and all sheriffs, jailors and constables are hereby required to execute any precept issued by such president or court for that purpose."

They put all the constables, jailors and sheriffs at the disposal of a majority of those composing the court martial. They may be all minors, or persons entirely ignorant of law, yet every constable and every sheriff is subject to their order and any jailer must take the body of any man they want to send to a dungeon. There is no appeal from the decision except to the military superior. They call upon the power of the civil law to enforce the mandates of the court martial, an unlawful tribunal that should have no existence in times of peace, and especially in the proud old Commonwealth of Pennsylvania. These men have this power without control. The trial is held in secret, and it is an oath bound body, where witnesses are summoned only by the permission of one side. Counsel cannot cross-examine without the consent of the judge advocate, and the court is one that is appointed by the prosecutor. I was nearly four years in the army, and I know the power they have. As Senator Hale, of New Hampshire, once said, "it is a court organized to convict—a court appointed by the man who makes the charges, and he generally appoints only such as believe in the guilt of the party against whom the charges are made."

The CHAIRMAN. Will the gentleman from Columbia give way? There is consider-ble business to be transacted before the House adjourns.

Mr. BROCKWAY. I will, if it is the understanding that I will have the floor when the House again meets.

The CHAIRMAN. It is the understanding that the committee will resume the consideration of the bill at three o'clock, and the gentleman from Columbia will then have the floor.

The Committee then rose, and the SPEAKER resumed the chair.

AFTERNOON SESSION.

The House met at three o'clock P. M., pursuant to adjournment, Speaker ELLIOTT in the chair.

Mr. BROCKWAY. At the hour of adjournment I was attempting to show the inconsistency of incorporating into this military bill certain provisions in regard to the civil powers of this Commonwealth; and I refer to section sixty-five of that act, which provides that "warrants for the collection of fines, penalties and costs imposed by any court martial or court of inquiry, shall be executed as writs of *fieri facias*; and if lands are levied on, return of the proceedings thereon shall be made to the prothonotary of the county, who shall make full entries thereof, and enter judgment thereon; any judgment so entered shall be good and valid, and shall date its lien from the date of entry thereof, and shall be collected under the direction of the district attorney of the county, by the same process and rules of law as debts of record are now collected, and when collected, shall be paid by the district attorney into the military fund of the State."

This is simply cumulative evidence to show how the framers of this bill are attempting to use the courts of the Commonwealth to carry out what I conceive to be fines and penalties imposed by an illegal tribunal. These fines imposed by the courts martial have the effect of judgments on which execution can be issued, and yet the prisoner has no chance for appeal for a writ of *certiorari*, and cannot claim either stay or exemption; and the district attorney—the prosecuting officer of the Commonwealth, and elected by the people for other purposes—is charged with the execution of this section. In short, greater powers are given to this secret inquisition, intended for a time of war, than are conferred upon our courts of justice. This monstrous provision alone shows how ignorant its authors are of our fundamental law.

The next place in which this same subject occurs is section eighty-five. The section reads as follows:

"Any person belonging to the National Guard, when on military duty, together with his conveyance and the military property of the State, shall be allowed to pass free through all toll gates and over all toll bridges and ferries."

There is no power in this body to interfere with vested rights. When men have invested money in turnpikes, bridges or ferries I deny our right to give free transit over them without their consent. During an encampment a man might be compelled to ferry large bodies of men for a week without compensation from any source.

In the sixth section there occurs a provision which is absurd on its face. It reads as follows:

"Any one claiming exemption from enrollment may make and sign an affidavit giving his reason therefor, and give it to the assessor to be filed, and if false, he may be convicted of perjury."

Now, Mr. Chairman, this is a very important section. It strikes at between three hundred thousand and three hundred and fifty thousand citizens of this Commonwealth, any one of whom, if he claims exemption on any ground, and if that reason happens to be wrong, he can, by the provisions of this act, be convicted of perjury and sent to the penitentiary. Perjury, in the ordinary acceptation of the term, must be proven by several witnesses, and a man must have sworn falsely in a judicial proceeding and in a matter material to the subject investigated. Here you make it perjury if a man happens to make a mistake. If he errs in giving his reasons for exemption—however innocently—he is liable to the pains and penalties of perjury under that section.

Again, I see by reference to the very able report of the Adjutant General of this State—which certainly contains a great deal of valuable information—the question of enrollment comes up, and I desire to illustrate briefly how grossly defective the enrollment is, and how impossible it is to carry out its provisions on that subject in this bill. In Bradford county, which has a population of fifty-one thousand eight hundred and eighty-four, the total number enrolled is only four thousand three hundred and eighty-three, and the claims out of that number for exemption, one thousand three hundred and sixteen. About one-fourth the number enrolled in that county claim to be exempt from military duty. In Crawford county, with a population of sixty-three thousand seven hundred and eighty-six, the total number enrolled is only six thousand three hundred and eighteen, and the number exempt is two thousand four hundred and one—about one-third the number enrolled. In Indiana county, with a population of thirty-six thousand one hundred and sixty one, the total number enrolled is four thousand five hundred and seventy-two, and the number exempt is two thousand two hundred and sixty-seven—one half the number enrolled.

Yet the most singular thing about it is that while Indiana county has a population of thirty six thousand, Bradford county, with a population of twenty thousand more, has fewer persons subject to military duty than Indiana county.

Mr. BUCK. Will the gentleman allow me to explain?

Mr. BROCKWAY. Certainly.

Mr. BUCK. The most of the people of Bradford county went to the war and are, therefore, exempt from military duty.

Mr. BROCKWAY. Inasmuch as there are no exemptions for soldiers in the bill before us, I do not think that reason will answer as an explanation. There is no exemption, except from taxation under the old law.

Mr. BUCK. The record the gentleman refers to simply shows the number who are bound to pay the military tax under the old law.

Mr. BROCKWAY. No, it simply shows the enrollment of those subject to military duty, and out of the number one-fourth of those enrolled in Bradford county are put down as exempt.

Mr. BUCK. Exempt from the payment of military taxes, but not exempt from military duty.

Mr. BROCKWAY. That is precisely the point here.

The CHAIRMAN. Does the gentleman from Columbia understand the gentleman from Bradford?

Mr. BROCKWAY. I understand the question, but evidently he does not. It is alleged that trained soldiers are necessary even in a time of peace. Mr. Chairman, in no battle during the late war did the regular army prove superior to our volunteer forces, and in the Franco-German war the citizen soldiers of Germany were more than a match for the hirelings of France. The Pennsylvania Reserve Corps were as steady and as efficient as the regulars in the same corps. Humphrey's Division of nine months' men, at Fredericksburg, made as gallant a fight as was ever recorded in history, and no bayonet charge of veterans excelled that of the Corcoran Legion—raw men—at Spottsylvania. Standing armies are not necessary in a free country. The Atlantic and Pacific oceans defend us east and west, and our neighbors north and south are too weak to attack. Unless our Government becomes despotic or corrupt there is no danger of internal discord for generations to come.

In the next place, Mr. Chairman, what I conceive to be one of the most important points in this bill, one to which I would call the attention of every member of this House, is that in relation to the powers given courts martial—the most terrible inquisitorial powers ever granted by any act of this Legislature. I refer, in the first instance, to section forty-one, which provides that "Every commander on duty shall require and enforce obedience to all orders, and put under guard any person disobeying or violating them and may prefer charges therefor."

The point to which I especially refer is that the commander of these men can, while on duty, put any person under arrest. Not only the men under his control, but he can arrest you, me or any other citizen. He can order the person under guard without any charges or previous information, and the jailer is bound to keep him in confinement until the time expires. It puts the power in the hands of these men to make any arrests they please, without any charges, without warrant, without oath, and in direct opposition to the Constitution of this State and of the United States. Section forty-three, following that out, says:

"The commanders of divisions shall discharge the duties, possess the powers and be liable to the penalties pertaining to their office as granted by law or military custom."

What is "military custom," Mr. Chairman? The army regulations which I hold in my hand prescribe them. Men who have been in the army remember how it was exercised; how men were bucked and gagged, tied up by the thumbs, strapped to the spare wheels of caissons and dragged through the cities and towns in that manner, without even the formality of a court martial. By this bill you give them this power in time of peace, and under take to make this the law of Pennsylvania.

Mr. MAGEE. I would like to ask the gentleman from Columbia whether he finds those modes of punishment specified in the articles of war?

Mr. BROCKWAY. The customs of war permit that. I have known, on the march, men who were found straggling, pillaging or deserting to be shot down on the spot. And such an order was issued by General Meade on the march from the Rappahannock down to the James, and subordinate officers were authorized to exercise their discretion in the matter.

Mr. MAGEE. A very wholesome punishment.

Mr. BROCKWAY. I will not discuss the propriety of it in a time of war, but in time of peace it is too terrible a power to be given to any man.

Mr. MAGEE. I would like to ask the gentleman the difference between a case of emergency within the confines of our Commonwealth and a national conflict, or anything of that kind?

Mr. BROCKWAY. If I had the gentleman in the army I could explain it to him in a very short time. I will say that when the nation is struggling for its life, unlimited power is given to the military. We do not stop to enter into the minutiae of examination. But in time of peace, when our courts are open, to overturn our laws and gave our persons and property into the control of military gentleman, is one of the most monstrous propositions I have ever heard. Military custom is introduced here not only in defiance of common law, but contrary to the teachings of every patriot, who had more at heart his country's good than his own advancement. It would be an encroachment upon the liberties for which Washington, Bolivar, Kosciusko and Kossuth fought, and for which Emmett suffered. Nearly seven hundred years ago the mail-clad barons of England assembled on the banks of the Runnymede, and extorted Magna Charta from King John. It was a grand protest in favor of civil liberty, and through fear of its violation the people forced their King to give them the tower and city of London as security, had it read twice a year in their cathedrals with religious ceremonies, and the ecclesiastical powers fulminated excommunications against all such as dared to disobey it. But the grandest sentence of all—one which he engraved on the tablets of stone and in the heart of every freeman—was in section forty-six, which declared, "*Nulli vendemus, nulli negabimus aut differemus, rectum vel justitiam.*" We will sell to no man, we will not deny or delay to any man right and justice."

Mr. ELY. I would like to know whether the gentleman can use any language here I cannot understand.

Mr. BROCKWAY. The gentleman, in that case would deprive me of the use of the English.

The next section to which I refer is No. 76:

"Whenever a draft shall be ordered from the militia for public service, the commander-in chief shall prescribe the time, mode and manner of making such draft."

That is, the Governor not only prescribes the time, but the manner, mode and place. It puts absolute power in his hands—a power which should not be concentrated in any one man. If we should be so unfortunate as to have an Executive in the chair who wishes to perpetuate his power, he has the privilege of calling to his aid not only those twenty thousand men, but a hundred thousand more, and to have them under his control for such time and in such manner as he chooses, without any restraint or check.

Again, I object to section thirteen of this bill, because it creates a system of political favoritism. Not a major general has been appointed in this militia who is not of the same political stamp as the Executive. I care not what the district may be politically, every major general that has been appointed is a political favorite of the Governor and of his own party. But if it ended there, it would not be quite so objectionable. There is no provision that when the Executive vacates his chair they shall also vacate their offices. He may put in those places men against the wishes of the people, and there is no way to remove them. Like Warmoth, and Browlow with the military at his back he can maintain his position in defiance of the will of the entire people. We do not wish to have such power in any law to be enacted here. The tendency of the times is to put too much "military" in