

Which was read the first and second time by especial order, assented to, and sent to the house of delegates by the clerk of the senate.

Charles Carroll, of Carrollton, Esquire, from the committee appointed to prepare a message to the house of delegates respecting the militia bill, brings in and delivers to the president the following message; which was read, agreed to, and sent to the house of delegates by the clerk of the senate.

By THE SENATE, DECEMBER 21, 1792.

GENTLEMEN,

WE lament that you have rejected our amendments to the militia bill, and that you have returned it, at this late period of the session, for consideration, without assigning any reasons for your rejection of them.

We cannot recede from the amendments you have rejected, because the modification proposed, we think, is a substantial compliance with the act of congress, and not liable to the many evil consequences that would result from training, at the same time, all persons enrolled between eighteen and forty-five years of age. On a moderate calculation, the persons to be enrolled, (and not permanently exempted by the act of congress, and our amendments to your bill, from militia duty,) will amount to thirty thousand, the daily labour of each of whom may be fairly rated, on an average, at half a crown; the four days training, enjoined by the bill, would, on this calculation, amount to fifteen thousand pounds; a serious loss to the community at large, but more so to the persons immediately sustaining it.

The supposition is highly probable, that there are not fire-arms in the state more than sufficient to arm seven thousand men, the number which the division we propose to train during the first three years, would nearly amount to.

No exigency, we apprehend, can suddenly arise, which would authorize the president of the United States to call on this state for a greater number of militia than four thousand; yet, should such exigency unexpectedly happen, our amendments provide for it.

The selection prescribed by those amendments will be a considerable saving to the state, and great ease to the people. It must be admitted that four days exercise throughout the year will not give the militia even a tincture of military discipline; but when embodied and officered (should they be called into actual service) the habits and duties of a soldier will be best acquired and learnt by the practice of the field, and of real warfare.

The principal object congress had in view (as appears to us) was to have the sensible men so arranged, that if the peace of the society should be endangered or attacked by external or internal enemies, a force might be ready for its defence, and so organized as to be able to march on due notice of the danger or attack.

If this was the intention of congress, it will be better executed by our plan than by the one your bill has adopted.

The bill however, as amended, you may perhaps think is not a compliance with the law of the United States; for every salutary purpose, the preceding reasons prove, in our opinion, that the bill, if framed in conformity to our amendments, would be a real compliance with the principal design of the federal legislature; but there are not wanting arguments to shew, that so amended, it would be a literal compliance. It is observable, that a discretionary power, in some respects indefinite, is left by the act of congress to the state legislatures. We may fairly presume, that not only permanent exemptions were intended by the second section of that act, but temporary exemptions also, should the respective states deem it convenient, or conducive to their interest to make such. The words of the law are comprehensive enough to include exemptions of the latter description, "All persons who now are or may hereafter be exempted by the laws of the respective states, shall be and are hereby exempted from militia duty, notwithstanding their being above the age of eighteen and under the age of forty-five years."

Could words more comprehensive be made use of? All persons, says the act, may be exempted from militia duty by the respective states. In virtue of this discretion left with the states, they may exempt entire bodies of men from militia duty; for instance, if the legislature had thought fit, it might surely, under this power, without requiring an equivalent in money in lieu of personal service, have exempted all persons conscientiously scrupulous of bearing arms; this inference you will not deny, but may perhaps contend, that these exemptions can be construed to relate only to such as are permanent; this construction is not warranted even by the letter of the law, much less by its spirit; for the words permanent exemptions are not to be found, as placed in opposition to, or as distinguished from, temporary exemptions.

The amendments impose the obligation of enrolling all free white male inhabitants mentioned in the act of congress (except such as by that act and our amendments are excepted;) but they suspend for a term of years the performance of militia duty by those who may not be selected to compose the division subjected to that duty for the first term of three years. Why, it may be asked, should we have the power to exempt permanently from militia duty an entire class or classes of men within the prescribed age, and not have the lesser power to exempt them for a time only from that duty? Can a reasonable solution be given to this question? Every reason of policy, convenience and economy, make in favour of the lesser power; the constitution of the United States, paramount to all laws of congress, justifies, in this case, the assumption and exercise of the lesser power. By that constitution, congress is to provide for organizing, arming and disciplining, the militia, and for the government of such part of them as may be employed in the service of the United States; but the appointment of the officers, and the authority of training the militia, are reserved to the respective states; wherefore these states are at liberty to train their militia often or seldom, a part or the whole, one part during one period