

mies, 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 contradistinguished 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 of years, and another part during another period, these being only different modifications of the authority reserved to the states. To assert, that the states have not the power to exempt from militia duty for a time only (when not called into the service of the United States) a part of their militia, and to admit that they have the right, expressly recognized by the federal constitution, to exercise the militia under the modifications just mentioned, is such a contradiction as not to be reconciled in any other manner than by the construction we have put on the act of congress, a construction which reconciles that act with the power delegated, which abundantly provides (as far as numbers are concerned) for the protection of the United States, and of each individual state, and unites two important political objects, economy and safety.

Induced by the above reasons, and others which we have not time to enumerate and enforce, we adhere to our amendments; our adherence cannot possibly injure the United States, and will greatly benefit our own; we therefore return the bill for your further consideration, not doubting but that you will adopt the amendments we have made to it, and that you will prefer having a militia law upon the plan those amendments hold out, to breaking up without carrying into effect the act of congress, and leaving the state entirely destitute of a militia until the next annual session.

By order,

H. RIDGELY, clk.

Which was read.

The following message being prepared, viz:

BY THE HOUSE OF DELEGATES, DECEMBER 21, 1792.

MAY IT PLEASE YOUR HONOURS,

THIS house cannot, at this late period of the session, agree to reconsider the bill to declare the law in certain cases, which originated in your house, and which your honours agree is a very important one.

By order,

W. HARWOOD, clk.

Was read the first and second time, and the question put, That the house agree thereto? The yeas and nays being called for by Mr. Goldsborough, appeared as follow:

A F F I R M A T I V E.

Mediators	J. Ringgold,	Dashiell,	Sprigg,	Purnell,	Driver,	Cromwell,
	Harwood,	Eccleston,	Contee,	Corbin,	Douglass,	Jacques,
	Brooke,	Frazier,	Quynn,	Beatty,	Loockerman,	Crabb,
	Chapman,	Oldham,	Duvall,	Dorsey,	M'Mechen,	Oncle,
	M'Pherson,	Ewing,	Barnes,	Prall,	Ott,	Wootton,
	Hawkins,	Clark,	Dennis,	Hughlett,	Swearingen,	Johnson.
	Cox,					

37.

N E G A-