ryland (Mr. Nicholson). But instead of being dispelled they were materially strengthened by his observations. We are told that the laws of the union embrace the laws of the individual states. That the constitution gives us power to call forth the militia to execute the laws of the union; but it no where says that we may call forth the militia to execute the laws of the particular states; are the state laws then, laws of the union? One gentleman affirms that they are, and another gentleman denies it. Let us enquire for a moment what is the meaning of the phrase, union. The first paragraph of the constitution says, We the people of the United States, in order to form a more perfect union: again, New states may be admitted by Congress into this union; and in section 4, article 4. The United States, shall guarantee to every state in this union a republican form of government. Surely it means the combination of the whole, and those only are the laws of the union which are made by the representatives of the whole union. If the laws of individual states are laws of the union, because a state is a part of the union, then every bye-law of every city, borough, town, or corporation in the United States are laws of the union, for these also are parts of a state, in the union. How stands the question now? By the constitution you have no power to execute a state law; yet you assume that power if you pass this bill. It is said the state laws are binding over the union. They are only binding on those who reside or come within the limits of the state, and not on citizens residing and remaining in other states without their limits. An inhabitant of Jersey is not bound by the laws of New-York, while he remains on this side the North river. You might as well say that the state laws were binding upon the Universe, for a state is a part of the Universe.

Mr. J. Clay suggested to Mr. R. Griswold to vary his motion so as to strike out only that part of the section which related to the call of the militia by a state magistrate, and let all that relates to the army and navy stand. For altho' a state had the power of calling out its own militia to enforce the execution of her own laws, yet she could not call upon the regular troops or navy of the United States, and this force he considered as a necessary aid in the cases alluded to in the bill.

Mr. R. Griswold intended, if the section was struck out, to introduce a new one in its stead, declaring that the state process may be executed within the jurisdiction of the United States on the sea board, and then adding a permission to the state to call in the aid of the army and fleet of the union.

Mr. J. Randolph asked if he understood the gentleman right. Did he mean to authorise the state officer to execute his process within the United States jurisdiction, and make the killing of the officer or his assistant a felonious homicide?

Mr. R. Griswold, meant to give the power to the state officer expressly, and in that case, if resistance be made, most indubitably it is felonious homicide.

Mr. Nicholson was not convinced by any thing which had been said, that Congress have not the authority to call out the militia in order to secure the execution of the state laws; but he was not generally tenacious of his opinions, and he would be the last man in the world to give his assent to the assumption of powers not granted by the constitution, and if any reasonable doubt existed he would certainly refrain from pressing the question. He had no objection to the alteration proposed by the gentleman from Pennsylvania (Mr. Clay,) but he could not consent to strike out the whole section, as he conceived it gave the very authority contended for by the gentleman from Connecticut. He wished the bill to be rendered as efficacious as possible, and in order to remove the objection raised by doubts as to the constitutionality on account of calling forth the militia, he was willing to strike that part from the bill.

Mr. G. W. Campbell—This section contains a principle of much importance, though not yet touched upon by any of the gentlemen who have engaged in the discussion; and the manner in which the House may now decide thereon will go to fix a precedent upon which the freedom and independence of the individual states may be placed in jeopardy.

The first object in the section is to authorise a state officer, acting under the state authority, to go beyond the limits of such, and of course beyond its jurisdiction, to execute state process upon an offender escaping from justice. He did not believe that the United States were competent to give such authority, or that the United States could extend the laws of the several states beyond the boundaries of the state for which they had been enacted. For this reason he meant to oppose giving this authority to a state officer, but he would be clearly in favor of making such provision as would more effectually preserve peace in the ports and harbours and waters of the United States, and at the same time remove the doubts suggested by gentlemen on both sides. He would be for introducing into the bill, instead of the present section, a provision, that when such a crime shall have been committed, and the party charged had escaped into the United States jurisdiction, the state officer having received the state process might exhibit the same to a proper officer of the United States, who should issue a new warrant, and upon such warrant the offender escaping should be arrested. This he conceived to be the only mode in which Congress had a constitutional right to reach their object, or to aid the state government in apprehending offenders. He was clearly of opinion that the powers of a sheriff could only correspond with those vested by the writ, which never did more than command the person to be taken, if he be found within your bailiwick or county; if you extend his powers in the manner contemplated in the bill, the state officers of Philadelphia, will be dispatched with state process to execute in Charleston.

He had always been of opinion that each state had a right to call out its own militia, to carry into effect their own laws, and that the United States cannot require it of any state officer to call forth the militia to carry into effect the laws of such state; but he was also of opinion that Congress may authorise a state officer to call upon the United States officers to aid in the apprehension of fugitives from justice; but here we could only authorise them, and not compel them to make such call; if we could we should annihilate the very existence of the state governments. This provision being made he would go further, though he was not willing to authorise every justice of peace to call to his aid the military and naval forces of the United States, yet he was inclined to draw out this force whenever it became necessary, under the direction of a proper officer to carry into execution a state process, where a state was incompetent to that object.

He would briefly mention another objection. It was to that part of the section which relates to punishment in case of resistance. He conceived this to be altogether unnecessary. When the United States authorise their officer to execute a process, he is armed with all the requisite power for its accomplishment, and as long as he acts within the authority given to him he will be justified in his conduct, and all who oppose him will be guilty of such a crime as is known to the laws in the quarter where opposition may be given. This part of the bill appeared to him to be unnecessary, and if unnecessary it would be found also inconvenient. Whether the killing of the officer or his assistants was murder or man-slaughter would be determined by the facts, and the punishment in either case would be found under the state law, adopted from the English law to which a court would have to turn for its decision.

Mr. Nicholson wished that gentlemen before they found fault with the bill would pay a more particular attention to its provisions. The gentleman last up had supposed this bill enjoined upon the state officer, as a duty, that he should call in the aid of a military force to execute the state laws. That was not the case; the bill only says it shall be lawful for him so to do. It was observed some days since that our statutes affixed a punishment to the offence of resisting a civil process consisting of fine and imprisonment; but this being a different crime when attended with killing, it became necessary in order to remove doubts as to what punishment should be inflicted, that it be simplified and expressed in the law itself. He held himself ready to agree to the amendments suggested by the gentleman from Pennsylvania, (Mr. Clay) which he expected would satisfy every member, except the gentleman last up from Tennessee.

Mr. Nelson took this opportunity of expressing, in the most public and most explicit manner, that he should on all occasions vote against every measure which went to aggrandize the power of the United States at the expence of the individual state governments, or the authority of the people. It is at this day admitted that the general government have no other powers or jurisdiction than what are granted by the people in the constitution; that the powers not delegated therein, or prohibited by it to the states, are reserved to the states respectively, or to the people. The section before the committee contains two important regulations—one of which he considered as just and proper; the other not, as warranted by the constitution.—Nay, it would be a direct infringement upon the rights of the individual states. The section contemplates giving authority to the state officers to call out the militia of the state to execute its own laws, and thereby take the command of that force out of the hands of the executive authority, where the state constitutions generally placed it. He admitted the right of Congress to call forth the militia in cases of invasion or insurrection, and to execute the laws of the Union; but exclusively of these cases authorised by the constitution, he was bold to say Congress had no right to interfere with calling the militia into service——The command of the militia, he considered as a sovereign power, and as such it could not be exercised by two sovereign authorities; as that would destroy the very idea of sovereignty, which was an exclusion of all other authority than one; the state executive could not call forth the militia, and the Congress exercise the like power at the same time.—He should always hold up his hand against such interference with the state sovereignties, or an assumption of power by Congress, in this case, as well as other analogous cases.

Some gentlemen have entertained doubts whether Congress have power to authorise a state officer to execute process within the United States jurisdiction; if Congress have exclusive jurisdiction, it is competent for them to point out the manner in which it shall be conducted, and the persons by whom.—The states of New York and Connecticut may mutually agree that the process of each state may take effect in the other. This is a principle so plain, that it cannot be doubted, and it never ought to have been doubted but what Congress may in like manner permit a state process to be executed within its exclusive jurisdiction.

His colleague (Mr. Nicholson) had made a distinction, on enjoining it upon a state officer to call out the militia, and said that only gave him the power to do so, if he deemed it requisite. It is true, that it is not enjoined as a duty, but it is nevertheless equally true, that you assume to take away the power of a governor of a state, and give the authority to a justice of peace, intended by the state constitutions to be exclusively within executive and legislative controul—He should therefore vote in favor of striking out that part of the section, giving to judges or justices the power of calling out the militia, while he meant to favor that part extending the power to the civil officer of the state to make an arrest within the territory of the United States, or waters under its jurisdiction, in cases of fugitives from justice.

Mr. Dana had no objection to the second part of the clause, so far as it went to preserve peace in our ports and harbors, or maintain the rights of a state against every foreign aggression whatever. The general idea of combining the force of the United States and the force of an individual state, he thought unobjectionable as to its principle, and gentlemen differed merely as to the detail. True, the manner of conducting this operation was important, and required deliberation in order to avoid the establishment of a precedent, which might hereafter be drawn out to support an unconstitutional authority.—In respect to the first point, calling forth the Militia to execute the state laws, he did not see that it need be considered as an insuperable impediment; because although the United States could not call them forth to execute a state law, yet the states themselves possessed the power, and would no doubt provide for its efficacious exercise in carrying their respective laws into full effect. But a doctrine, that had been broached for the first time in the course of this debate, was a subject of an alarming tendency; and in his opinion was contrary to the whole scope of the constitutional powers granted to the general government of the Union.—It is said that the laws of particular states are laws of the United States because the states are a part of the Union. The constitution declares it to be the duty of the President to take care that the laws be faithfully executed, and he is to commission all officers of the United States. Is it meant that the President shall see to the execution of the laws of each particular state? This will give a vast range to Presidential authority. But this is not all; for if you extend your view to the end of this construction, it will be found that the judicial authority is co-extensive, and they will pass judgment of right upon the state laws.—It is very well known that the laws of the several states are of two kinds; part statute, and part common law; and this will extend their jurisdiction to all cases arising at common law. Grant this sweeping clause its whole range, and it will enable the courts of the United States to draw every litigated subject within their own cognizance; this is a step which surely gentlemen are not prepared to take at this time.

With respect to the latter part of the section, he was prepared to go the whole length. He would furnish the whole force of the United States to support the peace and independence of the states, and to vindicate lawful commercial pursuits, against any or every nation that dare attack them. He assented to the position of the gentleman from Virginia, (*Mr. J. Randolph*) and was willing to risk the question of peace or war upon the issue. He was not anxious to strike out the section; he did not know but it might be as well to re-commit it.

Mr. G. W. Campbell explained in what he conceived he had been mistaken by Mr. Nicholson, and declared his willingness to go as far in the protection of our commerce, and preserving peace within our waters, as any gentleman on the floor; the only point in variance was as to the mode. He wished it might be done in conformity to established principles in law and in right reason, keeping altogether clear of constitutional embarrassment.

The question on striking out the second section of the bill was carried in the affirmative, 61 being in favor of, and 41 against it.

A motion was then made by Mr. R. Griswold for the committee to rise and report the bill, with a view to its recommitment to a select committee. This being negatived.

The committee continued discussing the details of the bill.

Mr. J. Clay proposed to amend the bill by declaring that all unlawful search, or other vexation, or impressment of any of the crew of trading vessels coming to or going from the United States should be punished in the manner defined in the 5th section.

Upon some desultory conversation, and it appearing that the idea embraced by the amendment was provided for by other words in the bill, the amendment was lost.

Mr. J. Randolph observed that it was not surprising so much variation in sentiment had been disclosed. On the contrary he was surprised there had been so little. For he conceived it the most arduous task that had ever devolved upon a committee to report at once a bill perfectly satisfactory in its details on a subject as novel as it was important. The great difficulty was in providing against the clashing of the two jurisdictions in the execution of a state process. He thought it would be best to create the offence, and leave, to the state the mode of punishment in ordinary cases; but where offences were committed by foreign armed vessels he conceived the United States and the states might have a concurrent jurisdiction.

The committee rose and reported, and the business took the course marked in our Register.

Representation of the Philadelphia Chamber of Commerce, signed by order and in behalf of the said chamber, by Thomas Fitzsimmons, their President.

To the Senate and House of Representatives of the United States. The Philadelphia Chamber of Commerce respectfully represent—

THAT the bill to regulate the clearance of merchant vessels, now before the House of Representatives, if passed into a law, will be very injurious to the merchants of the United States, as well as to its general commerce.

By this bill it is provided, "that no merchant vessel armed, or provided with the means of being armed at sea, shall receive a clearance, or be permitted to leave the port where she may be so armed or provided." This clause excludes from arming, not only all vessels employed to and from the West-Indies, but also those trading to the South Pacific, North-West coast, and along the West coast of Africa, where armaments are as usual and necessary as in any other trade in which they are engaged. By another clause, armed merchant vessels of the United States are prohibited from going to a port in the West-Indies from any other country, under the penalty of forfeiture of the vessel and her equipment.

On these clauses your memorialists beg leave to remark: That the number of vessels cruizing in the West Indies, having, or pretending to have French commissions, and which capture or plunder unarmed Americans without regard to their destination, renders it absolutely necessary either to give public protection to that part of our commerce, or to suffer our merchants so to equip their ships as to be able to repress those depredations; and that the trade along the West coast of Africa, in the Pacific ocean, and on the North-West coast of America, cannot be carried on with any degree of safety without some armament.

The prohibiting of vessels armed in the United States from going to the West-Indies from any other country, will, as your memorialists believe, deprive the merchants of the United States of some very valuable branches of commerce which they at present enjoy. Voyages from the Mediterranean to the West-Indies are frequent and valuable, and vessels from India often find there a market for a part of their cargoes; all of which is interdicted by the bill in its present form.

By the same section it is provided, that if any vessel clearing out for a port in the Mediterranean or beyond the Cape of Good Hope, shall make or commit any depredation, outrage, unlawful assault or violence, such vessel, with her arms, tackle and furniture, or the value thereof, shall be forfeited to the use of the United States. This penalty your memorialists consider as unjust, inasmuch as no instance of the misconduct of vessels thus trading has hitherto occurred to render it necessary; and, as it leaves the property of the innocent owner subject to the indiscretion or misconduct of a commander of his crew, while the nature of the trespass is entirely undefined.

By the third section power is given to the collectors to detain vessels on suspicion until the opinion of the President shall be obtained. To this part of the bill your memorialists have objections that appear to them weighty.

By the bill, vessels intended for certain trades are permitted to arm, and if afterwards they proceed to the West-Indies, a penalty is incurred. It appears therefore superfluous to leave it in the power of a collector to detain such vessel upon surmise or suspicion: and it vests him with a discretion which may be exercised to the oppression of the merchant, to whom no remedy is pointed out by which an abuse of such power can be corrected.

Your memorialists having thus briefly stated their objections to the bill in its present form, beg leave to add some observations which they submit with deference to the consideration of the legislature.

Since the establishment of the present government, and particularly during the wars which have taken place between the nations of Europe, the commerce of the United States has at various times been subject to depredations of armed vessels of those nations; and the losses sustained, though compensated in part, are yet great beyond all computation.—Without intending to censure the government for the want of a protection which so extensive a commerce appears to call for, it is proper to remark, that the necessity of the case, and the peculiar state of things require, on our part, precautions, which, in common cases, would not be deemed necessary. On the evacuation of the French part of the Island of St. Domingo, a great number of small vessels were equipped as privateers from the Spanish part of that island and from Cuba, by which our ships have been continually harrassed, and even captured when employed in their ordinary and lawful commerce; and the most wanton abuse of power is now daily exercised on the persons and property of our fellow-citizens by a lawless banditti who are not under the controul of the government whose sanction they claim. If to American vessels is denied the means of defending themselves, it cannot be doubted but the number of these marauders will be multiplied to the further annoyance of our commerce, and a very alarming change in our relations with the indigenous inhabitants of St. Domingo may be the consequence. Without armament, their ports will be inaccessible to the Americans, which will impose on them the necessity of supplying themselves by means of armed boats and vessels. They will make prize of all unarmed vessels, and thus become the Algerines of the western hemisphere.

How far the proposed restriction may be of real utility to the mother country is very doubtful. It is however certain that her present inability to support a proper authority over this important colony, may eventually produce an order of things, in which, from our vicinity, we shall be more interested than any other nation.

If, however, the peace or general interests of the United States shall be found to require some restriction on the armament of merchant vessels, the merchants are willing to submit thereto, and only hope that the objects of the bill may be clearly defined; that such restriction shall not extend beyond the necessity of the case; and that its unusual penalties, together with the discretionary power to the collectors, may be omitted.

By order, and in behalf of
The Philadelphia Chamber of Commerce,
THOMAS FITZSIMMONS,
President.

Philadelphia, December 4th, 1804.

A BILL,

Making farther provision for extinguishing the debts due from the United States.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That all persons, or the legal representatives of persons, to whom loan office, or final settlement certificates, or indents of interest have been issued, and all persons in whose favor settlements have been made at the treasury, or who stand credited on the books of the treasury: which said certificates, credits, and settlements were issued or made for services or supplies done or furnished prior to the fourth day of March, in the year one thousand seven hundred and eighty-nine, and have not since been funded or paid, and all persons who served in the armies of the United States, during the late revolutionary war with Great Britain, and to whom arrearages of pay, clearly appearing on the muster and pay rolls now existing in the War office, may be due, shall be allowed to present their respective claims at the treasury, and shall receive the amount thereof, without any interest, upon proving by the oath or affirmation of at least one disinterested witness, to the satisfaction of the auditor, that he or she so claiming is the person or legal representative of the person to whom the same was originally due.

Sec. 2. *And be it further enacted,* That if the claim shall arise upon a certificate alledged to have been lost or destroyed, the claimant shall state the manner of such loss or destruction, with his or her belief of the same upon oath, and shall likewise give bond with security, to be approved by the auditor, condi-