

Mr. Chairman,

1. After the best reflection which I have been able to bestow on the subject of the bill before you, I am of the opinion that its principles are not warranted by any provision of the [constitution](#). It appears to me to partake of the nature of those other propositions for military measures, which this session, so fertile in inventions, has produced. It is of the same class with the plan of the [Secretary of War](#); with the bill reported to this House by its own Committee for filling the ranks of the regular army by classifying the free male population of the [United States](#); & with the resolution recently introduced by an honorable gentleman from [Pennsylvania](#) ([Mr. Ingersoll](#)), & which now lies on your table, carrying the principle of compulsory service in the regular army to its utmost extent.

2. This bill indeed is less undisguised in its object, & less direct in its means, than some of the measures proposed. It is an attempt to exercise the power of forcing the free men of this country into the ranks of an army, for the general purposes of war, under color of a military service. To this end it commences with a *classification*, which is no way connected with the general organization of the Militia, nor, to my apprehension, included within any of the powers which [Congress](#) possesses over them. All the authority which this Government has over the Militia, until actually called into its service, is to enact laws for their organization & discipline. This power it has exercised. It now possesses the further power of calling into its service any portion of the Militia of the States, in the particular exigencies for which the Constitution provides, & of governing them during the continuance of such service. Here its authority ceases. The classification of the whole body of the Militia, according to the provisions of this bill, is not a measure which respects either their general organization or their discipline. It is a distinct system, introduced for new purposes, & not connected with any power, which the Constitution has conferred on Congress.

3. But, Sir, there is another consideration. The services of the men to be raised under this act are not limited to those cases in which alone this Government is entitled to the aid of the militia of the States. These cases are particularly stated in the Constitution — "[to repel invasion, suppress insurrection, or execute the laws.](#)" But this bill has no limitation in this respect. The usual mode of legislating on the subject is abandoned. The only section which would have confined the service of the Militia, proposed to be raised, within the United States has been stricken out; & if the President should not march them into the Provinces of [England](#) at the North, or of [Spain](#) at the South, it will not be because he is prohibited by any provision in this act.

4. This, then, Sir, is a bill for calling out the Militia, not according to its existing organization, but by draft from new created classes;—not merely for the purpose of "repelling invasion, suppressing insurrection, or executing the laws," but for the general objects of war—for defending ourselves, or invading others, as may be thought

expedient;—not for a sudden emergency, or for a short time, but for long stated periods; for two years, if the proposition of the Senate should finally prevail; for one year, if the amendment of the House should be adopted. What is this, Sir, but raising a standing army out of Militia by draft, & to be recruited by draft, in like manner, as often as occasion may require?

5. This bill, then, is not different in principle from the other bills, plans, & resolutions, which I have mentioned. The present discussion is properly & necessarily common to them all. It is a discussion, Sir, of the last importance. That measures of this nature should be debated at all, in the councils of a free Government, is cause of dismay. The question is nothing less, than whether the most essential rights of personal liberty shall be surrendered, & despotism embraced in its worst form.

6. I have risen, on this occasion, with anxious & painful emotions, to add my admonition to what has been said by others. Admonition & remonstrance, I am aware, are not acceptable strains. They are duties of unpleasant performance. But they are, in my judgment, the duties which the conditions of a falling state imposes. They are duties which sink deep in his conscience, who believes it probable that they may be the last services, which he may be able to render to the Government of his Country. On the issue of this discussion, I believe the fate of the Government may rest. Its duration is incompatible, in my opinion, with the existence of the measures in contemplation. A crisis has at last arrived, to which the course of things has long tended, & which may be decisive upon the happiness of present & of future generations. If there be anything important in the concerns of men, the considerations which fill the present hour are important. I am anxious, above all things, to stand acquitted before GOD, & my own conscience, & in the public judgments, of all participations in the Counsels, which have brought us to our present condition, & which now threaten the dissolution of the Government. When the present generation of men shall be swept away, & that this Government ever existed shall be a matter of history only, I desire that it may then be known, that you have not proceeded in your course unadmonished & unforwarned. Let it then be known, that there were those, who would have stopped you, in the career of your measures, & held you back, as by the skirts of your garments, from the precipice, over which you are now plunging, & drawing after you the Government of your Country.

7. I had hoped, Sir, at an early period of the session, to find gentlemen in another temper. I trusted that the existing state of things would have impressed on the minds of those, who decide national measures, the necessity of some reform in the administration of affairs. If it was not to have been expected that gentlemen would be convinced by argument, it was still not unreasonable to hope that they would listen to the solemn preaching of events. If no previous reasoning could satisfy them, that the favorite plans of Government would fail, they might yet be expected to regard the fact, when it happened, & to yield to the lesson which it taught. Although they had, last year,

given no credit to those who predicted the failure of the campaign against [Canada](#), yet they had seen that failure. Although they then treated as idle all doubts of the success of the loan, they had seen the failure of that loan. Although they then held in derision all fears for the public credit, & the national faith, they had yet seen the public credit destroyed, & the national faith violated & disgraced. They had seen much more than was predicted; for no man had foretold that our means of defense would be so far exhausted in foreign invasion, as to leave the place of our own deliberations insecure, & that we should, this day, be legislating in view of the crumbling monuments of our national disgrace. No one had anticipated that this City would have fallen before a handful of troops, & that British Generals & British Admirals would have taken their airings along the [Pennsylvania Avenue](#), while the government was in full flight, just awaked perhaps from one of its profound meditations on the plan of a Conscription for the conquest of Canada. These events, Sir, with the present state of things, & the threatening aspect of what is future, should have brought us to a pause. They might have reasonably been expected to induce Congress to review its own measures, & to exercise its great duty of inquiry relative to the conduct of others. If this was too high a pitch of virtue for the multitude of party men, it was at least to have been expected from Gentlemen of influence & character, who ought to be supposed to value something higher than mere party attachment, & to act from motives somewhat nobler than a mere regard to party consistency. All that we have yet suffered will be found light & trifling, in comparison with what is before us, if the Government shall learn nothing from experience but to despise it, & shall grow more & more desperate in its measures, as it grows more & more desperate in its affairs.

8. It is time for Congress to examine & decide for itself. It has taken things on trust long enough. It has followed Executive recommendation, till there remains no hope of finding safety in that path. What is there, Sir, that makes it the duty of this people now to grant new confidence to the administration, & to surrender their most important rights to its discretion? On what merits of its own does it rest this extraordinary claim? When it calls thus loudly for the treasure & lives of the people, what pledge does it offer that it will not waste all in the same preposterous pursuits, which have hitherto engaged it? In the failure of all past promises, do we see any assurance of future performance? Are we to measure out our confidence in proportion to our disgraces, & now at last to grant away every thing, because all that we have heretofore granted has been wasted or misapplied? What is there in our condition, that bespeaks a wise or an able Government? What is the evidence, that the protection of the country is the object principally regarded? In every quarter, that protection has been more or less abandoned to the States. That every town on the coast is not now in possession of the enemy, or in ashes, is owing to the vigilance & exertions of the States themselves, & to no protection granted to them by those on whom the whole duty of their protection rested.

Or shall we look to the acquisition of the professed objects of the war, & there find grounds for approbation & confidence. The professed objects of the war are abandoned in all due form. The contest for sailors' rights is turned into a negotiation about boundaries & military roads, & the highest hope entertained by any man of the issue, is that we may be able to get out of the war without a cessation of territory.

9...[paragraph about financial issues - the government is out of money]

10. et us examine the nature & extent of the power, which is assumed by the various military measures before us. In the present want of men & money, the Secretary of War has proposed to Congress a Military Conscription. For the conquest of Canada, the people will not enlist; & if they would, the Treasury is exhausted, & they could not be paid. Conscription is chosen as the most promising instrument, both of overcoming reluctance to the Service, & of subduing the difficulties of the Exchequer. The administration asserts the right to fill the ranks of the regular army by compulsion. It contends that it may now take one out of every twenty-five men, & any part or the whole of the rest, whenever its occasions require. Persons thus taken by force, & put into an army, may be compelled to serve there, during the war, or for life. They may be put on any service, at home or abroad, for defense or for invasion, accordingly to the will & pleasure of the Government. The power does not grow out of any invasion of the country, or even out of a state of war. It belongs to Government at all times, in peace as well as in war, & it is to be exercised under all circumstances, according to its mere discretion. This, Sir, is the amount of the principle contended for by the Secretary of War.

11. Is this, Sir, consistent with the character of a free Government? Is this civil liberty? Is this the real character of our Constitution? No Sir, indeed it is not. The Constitution is libeled, foully libeled. The people of this country have not established for themselves such a fabric of despotism. They have not purchased at a vast expense of their own treasure and their own blood a [Magna Carta](#) to be slaves. Where is it written in the Constitution, in what article or section is it contained, that you may take children from their parents, & parents from their children, & compel them to fight the battles of any war, in which the folly or the wickedness of Government may engage it? Under what concealment has this power lain hidden, which now for the first time comes forth, with a tremendous & baleful aspect, to trample down & destroy the dearest rights of personal liberty? Who will show me any constitutional injunction, which makes it the duty of the American people to surrender everything valuable in life, & even life itself, not when the safety of their country & its liberties may demand the sacrifice, but whenever the purposes of an ambitious & mischievous Government may require it? Sir, I almost disdain to go to quotations & references to prove that such an abominable doctrine has no foundation in the Constitution of the country. It is enough to know that that instrument was intended as the basis of a free Government, & that the power contended for

is incompatible with any notion of personal liberty. An attempt to maintain this doctrine upon the provisions of the Constitution is an exercise of perverse ingenuity to extract slavery from the substance of a free Government. It is an attempt to show, by proof & argument, that we ourselves are subjects of despotism, & that we have a right to chains & bondage, firmly secured to us & our children, by the provisions of our Government. It has been the labor of other men, at other times, to mitigate & reform the powers of Government by construction; to support the rights of personal security by every species of favorable & benign interpretation, & thus to infuse a free spirit into Governments, not friendly in their general structure & formation to public liberty.

12. The supporters of the measures before us act on the opposite principle. It is their task to raise arbitrary powers, by construction, out of a plain written charter of National Liberty. It is their pleasing duty to free us of the delusion, which we have fondly cherished, that we are the subjects of a mild, free, & limited Government, & to demonstrate by a regular chain of premises & conclusions, that Government possesses over us a power more tyrannical, more arbitrary, more dangerous, more allied to blood & murder, more full of every form of mischief, more productive of every sort & degree of misery, than has been exercised by any civilized Government, with a single exception, in modern times.

13. The Secretary of War has favored us with an argument on the constitutionality of this power. Those who lament that such doctrines should be supported by the opinions of a high officer of government, may a little abate their regret, when they remember that the same officer, in his last letter of instructions to our ministers abroad, maintained the contrary. In that letter, he declares, that even the impressment of seamen, for which many more plausible reasons may be given than for the impressment of soldiers, is repugnant to our constitution.

14. It might therefore be a sufficient answer to his argument, in the present case, to quote against it the sentiments of its own author, & to place the two opinions before the House, in a state of irreconcilable conflict. Further comment on either might then be properly forborne, until he should be pleased to inform us which he retracted, & to which he adhered. But the importance of the subject may justify a further consideration of the argument.

15. Congress having, by the Constitution a power to raise armies, the Secretary contends that no restraint is to be imposed on the exercise of this power, except such as is expressly stated in the written letter of the instrument. In other words, that Congress may execute its powers, by any means it chooses, unless such means are particularly prohibited. But the general nature & object of the Constitution impose as rigid a restriction on the means of exercising power, as could be done by the most explicit injunctions. It is the first principle applicable to such a case, that no construction shall be

admitted which impairs the general nature & character of the instrument. A free constitution of Government is to be construed upon free principles, & every branch of its provisions is to receive such an interpretation as is full of its general spirit. No means are to be taken by implication, which would strike us absurdly, if expressed. And what would have been more absurd, than for this constitution to have said that to secure the great blessings of liberty it gave to Government an uncontrolled power of military conscription? Yet such is the absurdity which it is made to exhibit, under the commentary of the Secretary of War.

16. But it is said, that it might happen that an army would not be raised by voluntary enlistment, in which case the power to raise armies would be granted in vain, unless they might be raised by compulsion. If this reasoning could prove any thing, it would equally show, that whenever the legitimate power of the Constitution should be so badly administered as to cease to answer the great ends intended by them, such new powers may be assumed or usurped, as any existing administration may deem expedient. This is the result of his own reasoning, to which the Secretary does not profess to go. But it is a true result. For if it is to be assumed, that all powers were granted, which might by possibility become necessary, & that Government itself is the judge of this possible necessity, then the powers of Government are precisely what it choose they should be. Apply the same reasoning to nay other power granted to Congress, & test its accuracy by the result. Congress has power to borrow money. How is it to exercise this power? Is it confined to voluntary loans? There is no express limitation to that effect, & in the language of the Secretary, it might happen, indeed, it has happened, that persons could not be found willing to lend. Money might be borrowed then in any other mode. In other words, Congress might resort to a *forced* loan. It might take the money of any man, by force, & give him in exchange Exchequer notes or Certificate of Stock. Would this be quite constitutional, Sir? It is entirely within the reasoning of the Secretary, & it is a result of his argument, outraging the rights of individuals in a far less degree, than the practical consequences which he himself draws from it. A compulsory loan is not to be compared, in point of enormity, with a compulsory military service.

17. If the Secretary of War has proved the right of Congress to enact a law enforcing a draft of men out of the Militia into the regular army, he will at any time be able to prove, quite as clearly, that Congress has power to create a Dictator. The arguments which have helped him in one case, will equally aid him in the other. The same reason of a supposed or possible state necessity, which is urged now, may be repeated then, with equal pertinency & effect.

18. Sir, in granting Congress the power to raise armies, the People have granted all the means which are ordinary & usual, & which are consistent with the liberties & security of the People themselves; & they have granted no others. To talk about the unlimited power of the Government over the means to execute its authority, is to hold a language

which is true only in regard to despotism. The tyranny of Arbitrary Government consists as much in its means as in its ends; & it would be a ridiculous & absurd constitution which should be less cautious to guard against abuses in the one case than in the other. All the means & instruments which a free Government exercises, as well as the ends & objects which it pursues, are to partake of its own essential character, & to be conformed to its genuine spirit. A free Government with arbitrary means to administer it is a contradiction; a free Government without adequate provisions for personal security is an absurdity; a free Government, with an uncontrolled power of military conscription, is a solecism, at once the most ridiculous & abominable that ever entered into the head of man.

19. [the effect on families]

20. [the qualities of a conscript army]

21. [effect on the morale of Americans]

22. I would ask, Sir, whether the supporters of these measures have well weighed the difficulties of their undertaking. Have they considered whether it will be found easy to execute laws which bear such marks of despotism on their front, & which will be so productive of every sort & degree of misery in their execution? For one, Sir, I hesitate not to say, that they can not be executed. No law professedly passed for the purpose of compelling a service in the regular army, nor any law, which under color of military draft, shall compel men to serve in the army, not for the emergencies mentioned in the Constitution, but for long periods, & for the general objects of war, can be carried into effect. In my opinion, it ought not to be carried into effect. The operation of measures thus unconstitutional & illegal ought to be prevented, by a resort to other measures which are both constitutional & legal. It will be the solemn duty of the State Governments to protect their own authority over their own Militia, & to *interpose* between their citizens & arbitrary power. These are among the objects for which the State Governments exist; & their highest obligations bind them to the preservation of their own rights & the liberties of their people. I express these sentiments here, Sir, because I shall express them to my constituents. Both they & myself live under a Constitution which teaches us, that "the doctrine of non-resistance against arbitrary power & oppression, is absurd, slavish, & destructive of the good & happiness of mankind." With the same earnestness with which I now exhort you to forebear from these measures, I shall exhort them to exercise their unquestionable right of providing for the security of their own liberties.

23. In my opinion, Sir, the sentiments of the free population of this country are greatly mistaken here. The nation is not yet in a temper to submit to conscription. The people have too fresh & strong a feeling of the blessings of civil liberty to be willing thus to surrender it. You may talk to them as much as you please, of the victory & glory to be

obtained in the Enemy's Provinces; they will hold those objects in light estimation, if the means be a forced military service. You may sing to them the song of Canada Conquests in all its variety, but they will not be charmed out of the remembrance of their substantial interests, & true happiness. Similar pretences, they know, are the graves in which the liberties of other nations have been buried, & they will take warning.

24. Laws, Sir, of this nature can create nothing but opposition. If you scatter them abroad, like the fabled serpents' teeth, they will spring up into armed men. A military force cannot be raised, in this manner, but by the means of a military force. If the administration has found that it cannot form an army without conscription, it will find, if it ventures on these experiments, that it can not enforce conscription without an army. The Government was not constituted for such purposes. Framed in the spirit of liberty, & in the love of peace, it has no powers which render it able to enforce such laws. The attempt, if we rashly make it, will fail; & having already thrown away our peace, we may thereby throw away our Government.

25. Allusions have been made, Sir, to the state of things in [New England](#), &, as usual, she has been charged with an intention to dissolve the Union. The charge is unfounded. She is much too wise to entertain such purposes. She has had too much experience, & has too strong a recollection of the blessings which the Union is capable of producing under a just administration of Government. It is her greatest fear, that the course at present pursued will destroy it, by destroying every principle, every interest, every sentiment, & every feeling which have hitherto contributed to uphold it. Those who cry out that the Union is in danger are themselves the authors of that danger. They put its existence to hazard by measures of violence, which it is not capable of enduring. They talk of dangerous designs against Government, when they are overthrowing the fabric from its foundations. They alone, Sir, are friends to the union of the States, who endeavor to maintain the principles of civil liberty in the country, & to preserve the spirit in which the Union was framed.^[2]