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REPORT

OF THE

COMMITTEE ON MILITARY AFFAIRS,

[G. W. Williams]

ON

THE DIFFERENCES THAT EXIST,

BETWEEN THE

UNITED STATES AND SOME OF THE INDIVIDUAL STATES,

RESPECTING

THE RELATIVE POWERS

OF

THE GENERAL AND STATE GOVERNMENTS

OVER

THE MILITIA.

FEBRUARY 28, 1815.

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1815.

IN SENATE
OF
THE UNITED STATES.

FEBRUARY 28, 1815.

The committee of the senate on military affairs, understanding that serious differences of opinion existed between the executive authority of the United States, and the authorities of some of the individual states, respecting the relative powers of the general and state governments, over the militia, deemed it an incumbent duty on them to call for information upon that highly interesting subject; with a view of interposing, if found practicable, some legislative provisions for the mutual accommodation of such differences. For this purpose, on the 7th of January last, in virtue of instructions from the committee, a letter was addressed to the honorable secretary for the department of war, a copy of which accompanies this report; and in reply thereto, the committee received from him the letter and documents which also accompany this report.

Although the return of peace has, for the present, relieved the committee from the necessity of providing a legislative remedy for these unfortunate differences, yet the committee conceive that the points in question are of vital importance to the essential rights and powers of the government of the United States, and that the pretensions of the authorities of the states of Massachusetts, Connecticut, and Rhode Island, set up in opposition thereto,

if now acquiesced in, might be resumed by the state authorities in the event of a future war, and thus deprive the government of the United States of some of its most efficient legitimate means of prosecuting such war with vigor and effect; the committee have therefore thought proper to present the papers concerning this subject to the senate for consideration

Whilst the committee will refrain from entering into arguments to fortify the grounds taken by the executive government on this subject, and explained in the letter of the secretary for the department of war, they feel themselves impelled by a sense of justice to express a decided approbation of its conduct, in supporting and preserving the constitution of the United States against the effects of the pretensions of the state authorities aforesaid, which, after full consideration, the committee believe not warranted by the constitution, nor deducible from any fair and just interpretation of its principles and objects. The direct and inevitable tendencies of those pretensions, in the opinion of the committee, would be, to deprive the government of the United States of powers essentially necessary to insure *the common defence*, one of the great objects committed to its charge; to introduce discordant and contradictory councils into the national deliberations. upon a point, too, of all others, most requiring union of thought and of action; to change the fundamental character of the constitution itself, and thus eventually to produce its destruction, by debilitating the government, and rendering it incompetent to the great objects of its institution; and to substitute in its stead the dismemberment of these United States, with all the horrible consequences respectively resulting from disunion.

DOCUMENTS.

Committee Chamber, January 7, 1815.

SIR,

The committee of the senate on military affairs, having observed that differences exist between the authorities of the United States, and of some of the individual states, respecting the relative command of the officers of the regular army, and of the militia, when called to act together in certain cases, has instructed me to ask for such information upon that subject, as may be in possession of your department; and to inquire, whether, in your judgment, some legislative provisions might not be adopted, which would tend to heal such differences, to prevent the recurrence of others from the same cause, and to facilitate the operations of your department in that respect?

Be pleased, sir, to accept assurances of my high consideration, &c.

WM. B. GILES, *chairman.*

The honorable James Monroe,
secretary for the department of war.

Department of War, February 11, 1815.

SIR—I have had the honor to receive your letter of the 7th ultimo, stating that the military committee of the senate had observed that difficulties had arisen between the authorities of the United States, and some of the individual states, respecting the relative command of the officers of the

regular army and of the militia, when called to act together, and were desirous of such information on the subject as this department might possess, and of its opinion, whether some legislative provisions might not be adopted which would tend to heal such differences, to prevent the recurrence of the like for the same causes, and to facilitate the operations of the department in other respects.

My late indisposition will, I trust, explain satisfactorily to the committee, the cause of the delay of my answer, which I have much regretted.

In complying with the request of the committee, it has appeared to me advisable to communicate all the documents in this department relating to the objects of its inquiry. By a detailed view of the several measures which have been adopted by the president, since the war, for the defence of the country, in discharge of the duties imposed on him by the constitution and laws of the United States; of the objections to those measures by the executives of some of the states; and of the correspondence between this department, and the military authorities acting under it, with the executives of such states, the committee will see the grounds of the differences which have attracted attention, and be enabled to judge how far any legislative interposition may be useful or proper.

The paper A contains a copy of the letters of the secretary of war to the governors of the several states, detailing their respective quotas of militia under the acts of congress.

B is a copy of a report of the secretary of war to the military committees of the senate and house of representatives, bearing date on the 21st day of December, 1812, communicating a division of the United States into military districts, then contem-

plated by the department of war, with the reasons for it; which division, with certain modifications, was afterwards adopted. This report treats on some subjects not immediately within the scope of the call of the committee, yet treating in all its parts on the important subject of defence, and thereby intimately connected with the object of the call, I have thought that a view of the whole paper, at this time would not be unacceptable.

C is a copy of the answers of the governors of several of the states, to the department of war, on the requisitions made for parts of their quotas of militia under the several acts of congress, and of the correspondence which passed between them and the department of war, and the commanders of the military districts, acting under it, within which those states were.

D is a copy of a correspondence between the governor of New Jersey and the department of war, relating to the appointment of the governor of New York, to the command of the military district No. 3; a copy of this correspondence is presented, to communicate to the committee every circumstance that has occurred relating to the command of the militia in the service of the United States.

It appears by these documents, that the governors of Massachusetts, Connecticut, and Rhode Island, have objected to the requisitions made on their several states for parts of their respective quotas of militia on the following grounds: 1st, That the president has no power to make a requisition for any portion of the militia, for either of the purposes specified by the constitution, unless the executive of the state on whose militia such call is made, admits that the case alleged exists, and approves the call. 2d, That when the

militia of a state should be called into the service of the United States, no officer of the regular army had a right to command them, or other person, not an officer of the militia, except the president of the United States in person. These being the only difficulties which have arisen between the executive of the United States, and the executives of any of the individual states, relative to the command of the militia, known to this department, are, it is presumed, those respecting which the committee has asked information

By these documents it is also shown, that certain portions of the militia were called out by the executives of these states, and a part of them put into the service of the United States. These doctrines were nevertheless adhered to. I do not go into a detail on these points, deeming it unnecessary, as all the facts will be found in the documents.

Respecting, as I do, and always have done, the rights of the individual states, and believing that the preservation of those rights, in their full extent, according to a just construction of the principles of our constitution, is necessary to the existence of our union, and of free government, in these states, I take a deep interest in every question which involves such high considerations. I have no hesitation, however, in declaring it as my opinion, that the construction given to the constitution, by the executives of these states, is repugnant to its principles, and of dangerous tendency.

By the constitution, congress has power to provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions; to provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service

of the United States, reserving to the states, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress.

The president is likewise made commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States.

The power which is thus given to congress, by the people of the United States, to provide for calling forth the militia for the purposes specified in the constitution, is unconditional. It is a complete power, vested in the national government, extending to all these purposes. If it was dependent on the assent of the executives of the individual states, it might be entirely frustrated. The character of the government would undergo an entire and radical change. The state executives might deny that the case had occurred, which justified the call, and withhold the militia from the service of the general government.

It was obviously the intention of the framers of the constitution, that these powers, vested in the general government, should be independent of the states' authorities, and adequate to the ends proposed. Terms more comprehensive than those which have been used, cannot well be conceived. Congress shall have power to provide for calling forth the militia to execute the laws of the union; what laws? all laws which may be constitutionally made. Whatever laws are adopted for that purpose within the just scope of that power, which do not violate the restraints provided in favor of the great fundamental principles of liberty, are constitutional, and ought to be obeyed. They have a right to provide for calling forth the militia to suppress insurrections. This right is also unqualified.

It extends to every case of insurrection against the legitimate authority of the United States. It may be said that the government may abuse its authority, and force the people into insurrection, in defence of their rights. I do not think that this is a probable danger under our system; or that it is the mode of redress, even if such abuse should be practised, which a free people, jealous of their rights, ought to resort to. The right which they have to change their representatives, in the legislative and executive branches of the government, at short intervals, and thereby the whole system of measures, if they should think proper, is an ample security against the abuse, and a remedy for it, if it should ever occur. Congress have also a right to provide for calling forth the militia to repel invasions. This right, by fair construction, is, in my judgment, an exemplification of the power over the militia, to enable the government to prosecute the war with effect, and not the limitation of it, by strict construction, to the special case of a descent of the enemy, on any particular part of our territory. War exists; the enemy is powerful; his preparations are extensive; we may expect his attacks in many quarters. Shall we remain inactive spectators of the dangers which surround us, without making the arrangements suggested by an ordinary instinctive foresight, for our defence? A regular army in sufficient extent may not exist. The militia is the principal resource. Is it possible that a free people would thus intentionally trammel a government, which they had created for the purpose of sustaining them in their just rank, and in the enjoyment of all their rights, as a nation, against the encroachments of other powers, more especially after they had experienced that reliance could not be placed on the states individually, and that without a ge-

neral government thus endowed, their best interests would be sacrificed, and even their independence insecure? A necessary consequence of so complete and absolute a restraint, on the power of the general government over the militia, would be to force the United States to resort to standing armies for all national purposes. A policy so fraught with mischief, and so absurd, ought not to be imputed to a free people in this enlightened age. It ought not more especially to be imputed to the good people of these states. Such a construction of the constitution is, in my opinion, repugnant to their highest interests, to the unequivocal intention of its framers, and to the just and obvious import of the instrument itself.

The construction given to the constitution by the executive, is sanctioned by legislative authority, by the practice of the government, and by the assent and acquiescence of all the states, since the adoption of the constitution, to the period of the late unhappy differences, respecting which the committee has desired to be informed. By the law of 1795, the president is authorized to call forth the militia, for the purposes mentioned in the constitution, by a direct application to the militia officers, without any communication with, or reference to, the executives of the individual states, and penalties are prescribed for carrying the law into effect, should resort to them be necessary. It merits attention in regard to the question under consideration, that the power given to the president, to call forth the militia, is not made dependent by this law, on the fact of an invasion having actually occurred, but takes effect in case of imminent danger of it. In the year 1795, the president of the United States, on the certificate of a judge of the supreme court, that an insurrection existed in the

western parts of Pennsylvania, called out the militia of several of the states, including the militia of Pennsylvania, to suppress it, which call was obeyed. In this instance the assent of the governor of Pennsylvania to the existence of an insurrection, was not asked. General Washington, who then held the office of chief magistrate, relied exclusively on the powers of the general government, for the purpose. The opinion of the same chief magistrate, of the power of the general government over the militia, was also made known, by another distinguished act of his administration. By a report of general Knox, the then secretary of war, to congress, this doctrine is maintained to the utmost extent, and exemplifications of it insisted on, which prove, that from the nature of our population, the militia was the force, which, in his judgment, ought principally to be relied on, for all national purposes.

In the instances under consideration, powers are granted to congress for specified purposes, in distinct terms. A right to carry powers thus granted, into effect, follows of course. The government to whom they are granted must judge of the means necessary for the purpose, subject to the checks provided by the system. It adopts a measure authorized, supervises its execution, and sees the impediments to it. It has a right to amend the law to carry the power into effect. If any doubt existed on this point, in any case, on general principles, and I see cause for none, it cannot in the present, a power having been explicitly granted to congress by the constitution, to pass all necessary and proper laws, for carrying into execution the powers which are vested in the general government.

Equally unfounded, in my opinion, is the other objection, of the executives of the states above mentioned, that when the militia of a state are call-

ed into the service of the United States, no officer of the regular army, or other person, not a militia officer, except the president of the United States, in person, has a right to command them.

When the militia are called into the service of the United States, all state authority over them ceases. They constitute a part of the national force, for the time, as essentially as do the troops of the regular army. Like the regular troops, they are paid by the nation. Like them their operations are directed by the same government. The circumstance, that the officers of the militia are appointed by, and trained under, the authority of the state, individually, (which must, however, be done according to the discipline prescribed by congress,) produces no effect on the great character of our political institutions, or on the character and duties of the militia, when called into the service of the United States.

That the president, alone, has a right to command the militia in person, when called into the service of the United States, and that no officer of the regular army can take the command in his absence, is a construction for which I can see nothing in the constitution to afford the slightest pretext. Is it inferred from the circumstance that he is appointed commander in chief of the militia when called into the service of the United States? The same clause appoints him commander in chief of the land and naval forces of the United States. In construction of law he is commander in chief, though not present. His presence is not contemplated in either case. Equally necessary is it in the one as in the other. What has been the practice under the constitution commencing with the first chief magistrate, and pursuing it under his successors, to the present time? Has any president ever com-

manded in person, either the land and naval forces, or the militia? Is it not known that the power to do it is vested in him, principally, for the purpose of giving him the control over military and naval operations, being a necessary attribute of the executive branch of the government? That although he might take the command of all the forces under it, no president has ever done it? That a provision for the actual command, is an object of legislative regulation, and the selection of the person to whom committed, of executive discretion?

Under the commander all the officers of every species of service and corps, regular and militia, acting together, take rank with common consent, and perfect harmony, according to an article of war, sanctioned by the constitution. By this article the officers of the regular army take rank of those of the militia of the same grade, without regard to the dates of their commissions, and officers of any and every grade, of the militia, take rank of all officers of inferior grade of the regular army. When these troops serve together they constitute but one national force. They are governed by the same articles of war. The details for detachment, guard, or any other service, are made from them equally. They are in truth blended together, as much as are the troops of the regular army when acting by themselves only.

The idea advanced by the honorable judges of Massachusetts, that where the regular troops and militia act together, and are commanded by the president, in person, who withdraws, there can be no chief commander, of right, of either species of force, over the whole, but that the regulars and militia, as implied, may even be considered as allied forces, is a consequence of the construction for which they contend. It pushes the doctrine of

state rights further than I have ever known it to be carried in any other instance. It is only in the case of powers who are completely independent of each other, and who maintain armies, and prosecute war, against a common enemy, for objects equally distinct and independent, that this doctrine can apply. It does not apply to the case of one independent power, who takes into its service the troops of another, for then the command is always at the disposal of the power making war, and employing such troops, whether regular or militia. How much less does it apply to the case under consideration, where there is but one power, and one government, and the troops, whether regular or militia, though distinguished by shades of character, constitute but one people, and are, in fact, countrymen, friends, and brethren.

The president is in himself no bond of union in that respect. He holds his station as commander in chief of the land and naval forces, and of the militia, under a constitution which binds us together as one people, for that and many other important purposes. His absence would not dissolve the bond. It would not revive discordant latent claims, or become a signal for disorganization.

The judicious selection of the chief commander, for any expedition or important station, is an object of high interest to the nation. Success often depends on it. The right to do this appears to me to have been explicitly vested in the president, by the authority given to congress to provide for calling forth the militia, for organizing, arming, disciplining, and governing them, when employed in the service of the United States, and by the powers vested in him as chief executive of the United States. The rights of that highly respectable and virtuous body of our fellow citizens, we, I am

persuaded, completely secured, when the militia officers commanding corps are retained in their command, a major general over his division, a brigadier over his brigade, a colonel over his regiment, and the inferior officers in their respective stations. These rights are not injured or affected by the exercise of the right of the chief magistrate; a right incident to the executive power, equally applicable to every species of force, and of high importance to the public, to appoint a commander over them, of the regular army, when employed in the service of the United States, if he should deem it expedient. The rights of the militia officers and those of the general government, are strictly compatible with each other. There is no collision between them. To displace militia officers for the employment of regulars, or to multiply commands of a separate character, especially of small bodies, for that purpose, would be improper.

In dividing the United States into military districts, and placing a general of the regular army in command in each, with such portion of the regular force, artillery and infantry, as could be spared from other service, it was the object of the president, to afford the best protection to every part of the union, that circumstances would admit of, with the least burden which might be possible to the people. These commanders were specially charged with the defence of their respective districts. It was enjoined on them to watch the movements of the enemy, to communicate them to the government, and to execute its orders in summoning to the field, on menace of invasion, such portions of the quotas of the militia of each state, within their respective districts, as had been provided for by act of congress, and detailed by this department, as were thought necessary.

When this arrangement was entered into, it will be observed, that there was no menace of immediate invasion, and few militia in the field. It was intended as a measure of precaution, to guard against possible, but as was hoped and presumed, distant dangers. The executive had then no alternative between that arrangement and any other. The militia officers of rank afforded none. They were at home; for the executive has no power under existing laws, to call them into the field, without a command of men suited to their rank; and even when thus called forth, their term of service must expire with that of the men whom they command. These facts show, that nothing was more remote from the intentions of the government, than to disregard the just claims of our fellow citizens of the militia. They show also how difficult it is to provide by any arrangement which can be adopted, for a general and permanent defence of our cities and seaboard, without employing officers who are always in service, in the principal commands at least, for the purpose.

It is admitted that by the increased pressure of the war, in consequence of which much larger bodies of militia have been called into service, and with them many general officers of experience and merit, these difficulties have proportionably diminished. Of these officers, several have been already advanced to distinguished commands, with great satisfaction to their fellow citizens, and advantage to their country. The committee may be assured that opportunities of this kind, regarding the obligation of a just responsibility, will be seized by the executive with pleasure.

How far these differences may be healed, or the recurrence of the like in future be prevented, by legislative provisions, the committee on a full view

of these documents, and on a due consideration of the whole subject, will be able to decide. It is proper however to remark, that the division of the country into military districts, so far as relates to that special object, requires no legislative sanction, if indeed it admits of one. The definition of boundary, was intended for the purpose of prescribing a limit to the civil duties, if they may be so called, rather than the military, of the commander of each district; rather to the period preceding an invasion, with a view to the necessary preparatory measures for repelling it, than after it should take place. An invasion by a large force would probably require the concentration of all our troops, along the sea coast, who might be brought to act in it. In such an event, all limitations of boundary, to the several commanders, would cease. The march of the enemy would regulate that of our armies, who would from every quarter be directed against them.

I have the honor to be,
 With great respect,
 Your most obedient,
 And very humble servant,
 JAMES MONROE

A.

Copy of a letter from William Eustis, Secretary of War, to the Governors of states, dated War Department, April 5, 1812.

I am instructed by the president of the United States to call upon the executives of the different states, to take effectual measures to organize, arm, and equip, according to law, and hold in readiness, to march at a moment's warning, their respective

proportions of one hundred thousand militia, officers included, by virtue of an act of congress, passed the 10th instant, entitled "An act to authorize a detachment from the militia of the United States."

This therefore is to require your excellency to take effectual measures for having ——— of the militia of ——— (being her quota) detached and duly organized in companies, battalions, regiments, brigades, and divisions, within the shortest periods that circumstances will permit, and as nearly as possible, in the following proportions of artillery, cavalry, and infantry, viz: one twentieth part of artillery, one twentieth part of cavalry, and the residue infantry.

There will however be no objection on the part of the president of the United States to the admission of a proportion of riflemen, duly organized in distinct corps, and not exceeding one tenth part of the whole quota of the states respectively. Each corps should be properly armed and equipped for actual service.

When the detachment and organization shall have been effected, the respective corps will be exercised under the officers set over them, but will not remain embodied, or be considered as in actual service, until by subsequent orders they shall be directed to take the field.

Your excellency will please to direct that correct muster rolls and inspection returns be made of the several corps, and that copies thereof be transmitted to this department as early as possible.

Copy of a letter from William Eustis, esquire, Secretary of War, to the Governor of Massachusetts, dated War Department, June 12, 1812.

SIR—I am directed by the president to request your excellency to order into the service of the

United States. on the requisition of major general Dearborn. such part of the quota of the militia of Massachusetts, detached conformably to the act of 10th April, 1812, as he may deem necessary for the defence of the sea coast.

I am, &c. &c.

Note. A similar letter addressed to the governors of Connecticut, Rhode Island, and New Hampshire.

Copy of a letter from William Eustis, Secretary of War, to his excellency Caleb Strong, Governor of Massachusetts, dated July 21, 1812.

SIR—By information received from major general Dearborn, it appears that the detachment from the militia of Massachusetts, for the defence of the maritime frontier, required by him under the authority of the president, by virtue of the act of the tenth of April, 1812, have not been marched to the several stations assigned them.

Inasmuch as longer delay may be followed with distress to a certain portion of our fellow citizens, and with injurious consequences to our country, I am commanded by the president to inform your excellency, that this arrangement of the militia, was preparatory to the march of the regular troops to the northern frontier. The exigencies of the service have required, and orders have accordingly been given, to major general Dearborn, to move the regular troops to that frontier, leaving a sufficient number to man the guns in the garrisons on the seaboard. The execution of this order, increases, as your excellency cannot fail to observe, the necessity of hastening the detached militia to their several posts, as assigned by general Dearborn; in which case they

will, of course, be considered in the actual service and pay of the United States.

The danger of invasion, which existed at the time of issuing the order of the president increases, and I am specially directed by the president to urge this consideration to your excellency, as requiring the necessary order to be given for the immediate march of the several detachments, specified by general Dearborn, to their respective posts.

I have the honor to be, &c.

Extract of a letter from John Armstrong, Secretary of War, to the Governor of Connecticut, dated August 9, 1813.

Whenever militia are called out, the contractor or his agent should be required to supply according to the contract.

Circular letter from John Armstrong, Secretary of War, to the Governors of the respective states, dated July 4, 1814.

SIR—The late pacification in Europe, offers to the enemy a large disposable force, both naval and military, and with it the means of giving to the war here, a character of new and increased activity and extent.

Without knowing with certainty, that such will be its application, and still less, that any particular point or points will become objects of attack, the president has deemed it advisable, as a measure of precaution, to strengthen ourselves on the line of the Atlantic, and (as the principal means of doing this will be found in the militia,) to invite the executives of certain states to organize and hold in readiness, for immediate service.

a corps of ninety-three thousand five hundred men, under the laws of the 28th February, 1795, and 18th of April, 1814.

The enclosed detail will show your excellency, what, under this requisition, will be the quota of ———. As far as volunteer uniform companies can be found, they will be preferred

The expediency of regarding (as well in the designations of the militia, as of their places of rendezvous,) the points, the importance or exposure of which will be most likely to attract the views of the enemy, need but be suggested.

A report of the organization of your quota, when completed, and of its place or places of rendezvous, will be acceptable.

I have the honor to be, &c.

Extract of a letter from John Armstrong, Secretary of War, to Nathaniel Searle, junior, adjutant general of militia, state of Rhode Island, dated July 9, 1814.

I have the honor to acknowledge the receipt of your letter of the 8th instant, accompanied by sundry documents in relation to the defence of the Atlantic frontier of the state of Rhode Island.

The state troops, if considered part of the militia, or as substitutes therefor, will be taken into the service of the United States, as the quota of Rhode Island, under the requisition of the 4th instant, and will be designated for the defence of that state.

B.

Copy of a letter from James Monroe, acting Secretary of War, to the Chairman of the Military Committee, dated Department of War, December 23, 1812.

I have had the honor to receive your letter of the 21st instant, requesting such information as

this department may possess, respecting the defects in the organization of the general staff of the army, and in the laws relating to volunteers; and requesting also, the opinion of this department, as to the propriety of augmenting the present military force, and in case of augmentation, of what description of troops it ought to consist.

The committee of each house of congress having called on the department of war for information on the same points, I shall have the honor to make to each committee the same report. The enclosed remarks go to several of the inquiries suggested in your letter, and contain the views of the department on the several subjects to which they relate. The pressure of business has forced me to give them a shape rather informal. A copy of them I have sent to day to the committee of the house of representatives, and hasten to forward a like copy to you.

EXPLANATORY OBSERVATIONS.

To make this war effectual, as to its just objects, so much of the physical force of the country must be brought into activity, as will be adequate. The force exists in an abundant degree, and it is only necessary to call it forth, and make a proper use of it. This force must be employed alike in defensive and offensive operations. The exposed parts of our own country claim a primary attention. After providing for their defence, all the remaining force may be employed in offensive operations. I will begin with that part which requires protection.

DEFENCE OF THE COAST.

The whole coast from our northern limits to St. Mary's should be divided into military districts.

Boston, including New Hampshire and Massachusetts, to constitute one.

Newport, including Rhode Island and Connecticut, another.

New York, including the state of New York and Jersey, a third.

Philadelphia, including Pennsylvania and Delaware, a fourth.

Norfolk, including Maryland and Virginia, a fifth.

Charleston, including North and South Carolina, and Georgia, a sixth.

At Boston, and at each of the other posts, let a company of artillery, or more than one, according to circumstances of the regular army, and a small portion of its infantry, be stationed. Let them be placed under the command of a brigadier, in the following manner, and let him have attached to him, an engineer. This force will constitute the nucleus of a little army, to be formed in case of invasion, of the militia, volunteers, or such other local force, as may be specially organized for the purpose.

This apportionment is intended to give an idea. It would be carried into detail by the executive.

At Boston, including a suitable proportion of artillery, and at Eastport and other ports eastward	600
At Newport, with a company of artillery	350
At New York, with a suitable proportion of artillery	1,000
At Philadelphia, with a company of artillery	200
Norfolk, with a company of artillery at Annapolis	300
North Carolina, one company of artillery	100
Charleston, with a company of artillery	300

By placing a general officer of the regular army of some experience, in command, at each of these

stations, charged with the protection of the country to his right and left to a certain extent, suitable provision will be made for the whole. The country will have confidence, and by degrees, a system of defence, suited to any emergency may be prepared for the whole coast. This may be done, by the local force, with economy, and what is also of great importance, without drawing at any time, for greater aid, on the regular force of the nation, which may be employed in offensive operations elsewhere. There should be some flying artillery at each station, ready mounted, and prepared to move in any direction which may be necessary. An engineer will be useful, to plan and execute any works which may appear proper for defence of the principal station, or any other within each military district.

It may be said that it is not probable, that the enemy will attempt an invasion of any part of the coast described, with a view to retain it, and less so for the purpose of desolation. It is nevertheless possible, and being so, provision ought to be made against the danger. An unprotected coast may invite attacks which would not otherwise be thought of. It is believed that the arrangement proposed will be adequate, and that none can be devised, to be so, which would prove more economical.

For Savannah and East Florida, special provision must be made. Whether East Florida is left in possession of Spain, or taken immediate possession of by the United States, in either case, it menaces the United States with danger to their vital interests. While it is held by Spain, it will be used as a British province, for annoying us in every mode in which it may be made instrumental to that end. The ascendancy which the British government has over the Spanish regency, secures to Great Britain

that advantage, while the war lasts. We find, that at present, the Creek Indians, are excited against us, and an asylum afforded to the slaves of the southern states who seek it there. To guard the United States against the attempts of the British government, in that vulnerable quarter, the province remaining in the hands of the Spanish authorities, a force of about 2000 regular troops will be requisite. It will require no more to hold it, should possession be taken by the United States.

For New Orleans and Natchitoches, including the Mobile and West Florida, about 2,500 men will be necessary. A local force may be organized in that quarter in aid of it, which it is believed will be adequate to any emergency.

The next object is Detroit and Malden, including the protection of the whole of our western frontier. For these, it is believed that 2,000 regular troops, with such aids as may be drawn from the states of Kentucky and Ohio, will be amply sufficient.

The following then, is the regular force requisite for the defence of those places:

Boston,	.	.	.	600
Newport, Rhode Island,	.	.	.	350
New York,	.	.	.	1000
Philadelphia,	.	.	.	200
Norfolk,	.	.	.	300
North Carolina,	.	.	.	100
Charleston,	.	.	.	300
Savannah and East Florida,	.	.	.	2000
New Orleans, Mobile, &c.	.	.	.	2,500
Detroit, Malden, &c.	.	.	.	2000

9,350

This leaves a force of about twenty six thousand regular troops, consisting of infantry, artillery, and cavalry, provided the whole force contemplated by law is raised and kept in the field, to be employed in offensive operations against Niagara, Kingston, Montreal, and all Lower Canada, and likewise against Halifax. This whole force however, even if raised, cannot be counted on as effective. The difference between the force on the muster rolls, and the effective force in the field, through a campaign, is generally estimated at a deficiency in the latter, of one fourth, with troops who have already seen service. With young troops, it may be placed at one third. Take from the nominal force, ten thousand, and it would leave about sixteen thousand for these latter purposes.

Will this force be sufficient? This will depend of course on the number of the British force which may be opposed to us. It is believed that the British force at Niagara, and its neighborhood; at Kingston, Montreal, Quebec, and in all Lower Canada, ought to be estimated at twelve thousand regulars, and several thousand militia; say in all, sixteen or eighteen thousand, and at Halifax, at three thousand.

To demolish the British force, from Niagara to Quebec, would require, to make the thing secure, an efficient regular army of twenty thousand men, with an army of reserve of ten thousand. The commander ought to have power to dispose of them as he thought fit. The movement against Niagara and Lower Canada, ought to be in concert and of course under the control of the same commander, who, alone, could be a competent judge of the suitable time and manner. A corps of reserve is indispensable to guard against casual-

ties, especially with raw troops. Nothing should be left to hazard. The expedition should be of a character to inspire a certainty of success, from which the best consequences would result. Our troops would be more undaunted, and those of the enemy proportionably more dismayed. In the interior, on both sides, the effect would be equally salutary: with us, it would aid in filling our ranks with regular troops, and drawing to the field such others as occasion might require: with the enemy, the effect would be equally in our favor. It would soon drive from the field the Canadian militia; and by depressing the spirits of the people, interrupt and lessen the supplies to the British army.

If the conquest of Canada should prove to be easy, a part of this force might be directed against Halifax; but for that purpose, a force should be specially provided, to consist of not less than six thousand men. Before this time next year, the honor and interest of the United States require that the British forces be driven into Quebec and Halifax, and be taken there, if possible. They must, at all events, be excluded from every foot of territory beyond the reach of their cannon. This may be done, if timely and suitable measures are adopted for the purpose, and they be executed with vigor and skill.

If the government could raise and keep in the field, thirty-five thousand regular troops, the legal complement of the present establishment, the deficiency to be supplied, even to authorize an expedition against Halifax, would be inconsiderable. Ten thousand men would be amply sufficient; but there is danger of not being able to raise that force, and to keep it at that standard. The estimate therefore of the force to be raised for the next

campaign, in addition to the legal complement, should cover any probable deficiency in it, as well as the addition which ought to be made to it. My idea is, that provision ought to be made for raising twenty thousand men, in addition to the present establishment. How shall these men be raised? Shall new regiments be added to the standing army, to constitute a part of it; the volunteer acts be relied on; or any other expedient adopted?

The first question to be answered is, can more than the force contemplated by the present military establishment be raised in time for the next campaign, and that force be kept in the field by new recruits, to supply losses produced by the casualties of war? Will the state of our population, the character and circumstances of the people who compose it, justify a reliance on such a resource alone?

The experiments heretofore made, even under the additional encouragement given by the acts passed at the last session of congress, and the excitement produced by the war, though great, forbid it. Abundant and noble proofs of patriotism have been exhibited by our citizens in those quarters where the approach and pressure of the enemy have been most felt. Many thousands have rallied to the standard of their country; but it has been to render voluntary service, and that for short terms. The increase of the regular army has been slow, and the amount raised, compared with the number sought, inconsiderable. Additional encouragement may produce a more important result; but still there is cause to fear that it will not be in the degree called for by the present emergency. If then there is cause to doubt success, that doubt is a sufficient motive for the legislature to act on, and to appeal, in aid of the existing resource, to another not likely to fail.

In rejecting a reliance on the regular military establishment alone, for the force necessary to give effect to the next campaign, the alternative is too obvious to be mistaken by any one. The occurrences of the present year designate it in the most satisfactory manner. The additional force must be raised for a short term, under every encouragement to the patriotism of the people which can be given, consistently with the circumstances of the country, and without interfering with enlistments into the old corps. The volunteer acts of the last session, may be the basis on which this additional force may be raised; but those acts must be radically altered to enable the president to raise the force. Experience has not been less instructive on this very important point. Although whole sections of our country, and among them many of our most distinguished and estimable citizens, have risen in arms and volunteered their services, and marched in the ranks, it has not been done under the volunteer acts. Those acts contemplate a beginning at the wrong end, and require too long an engagement to produce the desired effect. They contemplate a movement in no particular quarter, and by no particular person; they require that the people shall take the affair up of their own accord, enrol themselves into companies, and then recommend their officers to the president; and that the president shall not appoint the field officers until a sufficient number of companies are formed to constitute a regiment. Thus it may happen that companies from different states, all strangers to each other, may be thrown into a regiment, and that the field officers appointed to command them may be strangers alike to all the company, officers, and men. They contemplate, also, an enrolment for three years, with a service

only of one; conditions, which, in themselves, could not fail to defeat the object, as they enlist on their side, not one motive to action. The patriot citizen, who really wished to serve his country, would spurn the restraint imposed on him, of two years of inactivity out of three, and enter the regular army, where he would find active employment for the whole term of his enlistment. And the farmer, the merchant, and the artist, willing to make a sacrifice of a certain portion of their time to the urgent calls of their country, would find a check to that impulse, by the obligation they must enter into for so long a term: and by allowing no bounty, no pecuniary inducement, no aid to enable a man to leave home, is offered. It is impossible that such a project should succeed on an extensive scale. The ardent patriotism of a few, in detached circles of our country, may surmount these obstacles; but such examples will be rare.

To give effect to such a measure the president alone should have the appointment of all the officers under the rank of colonel, and it should be made in the following manner: He should first select such prominent men as had merited, and acquired, by a virtuous conduct, the confidence of their fellow citizens, and confer on them, with the advice and consent of the senate, the rank of colonel, and then confide to them the selection and recommendation of all their officers, to be approved by the president. These men would go to their homes, look around the country where they were known, and where they know every one, select the prominent men there, such as enjoyed the esteem and confidence of their fellow citizens, and recommend them, according to their respective pretensions, as field officers, captains, and sub-

alterns under them. Thus the service would be truly voluntary, as every man would act under officers to whose appointment he had essentially contributed. The several corps would consist of neighbors, friends, and brothers: example would animate to action; generous motives would be excited; patriotism roused; and the ties of kindred would unite with the love of country and of free government, to call our young men to the field.

The first object is to complete the regular establishment to its legal complement, and to keep it there. The pay of the soldiers has already been raised during the present session of congress; but this, it is feared, will not afford a sufficient inducement to fill the ranks within the requisite time. Let the bounty be raised to the sum of forty dollars to each recruit, and let the officers receive the sum of five dollars per man, for all whom they may recruit. These additional encouragements will, it is presumed, secure the desired success. When filled, how keep the regiments full? The presence of all the officers will be necessary, in that state, for their command; none could be spared to recruit. Different expedients have occurred to supply supernumerary officers for the recruiting business. It has, for example, been proposed to add a certain number of regiments, from fifteen to twenty, to the present military establishment; but this would be to rely on that establishment alone, which, as is presumed, it would be highly improper to do. This plan is farther objectionable, on account of the expense attending it; and likewise, as it would create delay in the organization of the corps and appointment of the officers. The same objections are applicable to the addition of a company to each battalion, not to mention others. On much con-

sideration, the following expedient has occurred as most eligible: Let one field officer, a major, be added to each regiment, and a third lieutenant to each company. This will allow a field officer and ten company officers from each regiment, for the recruiting service, which would be sufficient.

The additional force proposed for one year, is intended to supply the probable deficiencies in the present military establishment. This force being to be raised for a shorter term, and for a special purpose, it is presumed, that much aid may be drawn from that source, and with great despatch, for the purposes of the next campaign. It is probable, also, that it may be done without essentially interfering with enlistments into the old corps, as most of the men who may enter into this, might not be willing to engage in them.

If a lingering war is maintained, the annual disbursements will be enormous. Economy requires that it be brought to a termination with the least possible delay. If a strong army is led to the field, early in the spring, the British power on this continent must sink before it; and when once broken down it will never rise again. The reconquest of Canada, will become, in the opinion of all enlightened men, and of the whole British nation, a chimerical attempt. It will, therefore, be abandoned; but if delay takes place, reinforcements may be expected, and the war be prolonged. It is to save the public money, and the lives of our people, and the honor of the nation, that high bounties and premiums, and the most vigorous exertions in other respects, are advised. The prolongation of the war, for a single campaign, would exceed these expenditures more than ten fold.

C.

Boston, August 5, 1812.

SIR—I received your letter of the 21st July, when at Northampton, and the next day came to Boston. The people of this state appear to be under no apprehension of an invasion. Several towns indeed on the seacoast, soon after the declaration of war, applied to the governor and council for arms and ammunition, similar to the articles of that kind which had been delivered to them by the state in the course of the last war, and in some instances, they were supplied accordingly. But they expressed no desire that any part of the militia should be called out for their defence; and in some cases we were assured such a measure would be disagreeable to them.

You observe in your last letter, that the danger of invasion, which existed at the time of issuing the orders of the president, increases.

It would be difficult to infer from this expression that in your opinion that danger is now very considerable, as the president's order must have been issued before war was declared, your former letter being dated the 12th of June, and general Dearborn's, who was then at Boston, on the 22d of that month; besides, it can hardly be supposed that if this state had been in great danger of invasion, the troops would have been called from hence to carry on offensive operations in a distant province; however, as it was understood that the governor of Nova Scotia had, by proclamation, forbid any incursions or depredations upon our territories, and as an opinion generally prevailed, that the governor had no authority to call the militia into actual service, unless one of the exigencies contemplated by the constitution exists, I thought

it expedient to call the council together, and having laid before them your letter and those I had received from general Dearborn, I requested their advice on the subject of them

The council advised, " that they are unable from a view of the constitution of the United States, and the letters aforesaid, to perceive that any exigency exists which can render it advisable to comply with the said requisition; but, as upon important questions of law, and upon solemn occasions, the governor and council have authority to require the opinion of the justices of the supreme judicial court, it is advisable to request the opinion of the supreme court upon the following questions, viz :

" 1st. Whether the commanders in chief of the militia of the several states have a right to determine whether any of the exigencies contemplated by the constitution of the United States exist, so as to require them to place the militia, or any part of it, in the service of the United States, at the request of the president, to be commanded by him pursuant to acts of congress?

" 2d Whether, when either of the exigencies exist, authorizing the employing the militia in the service of the United States, the militia thus employed, can be lawfully commanded by any officer but of the militia, except by the president of the United States?"

I enclose a copy of the answers given by the judges to these questions.

Since the council were called, a person deputed by the towns of Eastport and Robinston, on our eastern boundary, at Passamaquoddy, applied to me, representing that they had no apprehensions of invasion by an authorized British force; but that there were many lawless people on the borders from whom they were in danger of predato-

ry incursions; and requesting that they might be furnished with some arms and ammunition, and that three companies of militia might be called out for their protection. The council advised that they should be supplied with such arms and ammunition as were necessary for their present defence, which has been ordered. They also advised me to call into the service of the United States, three companies of the detached militia, for the purpose abovementioned. I have this day issued an order for calling out three companies of the detached militia, to be marched forthwith to Passamaquoddy, and to be commanded by a major; two of the companies will be stationed at Eastport, and one company at Robinston, until the president shall otherwise direct.

I have no intention officially to interfere in the measures of the general government, but if the president was fully acquainted with the situation of this state, I think he would have no wish to call our militia into service, in the manner proposed by general Dearborn

It is well known that the enemy will find it difficult to spare troops sufficient for the defence of their own territory, and predatory incursions are not likely to take place in this state. for at every point, except Passamaquoddy, which can present an object to those incursions, the people are too numerous to be attacked by such parties as generally engage in expeditions of that kind

General Dearborn proposed, that the detached militia should be stationed at only a few of the ports and places on the east; from the rest a part of their militia were to be called away; this circumstance would increase their danger; it would invite the aggressions of the enemy, and diminish their power of resistance.

The whole coast of Cape Cod is expose as much as any part of the state to depredations; part of the militia must, according to this detailing order, be marched from their homes; and yet no place in the old colony of Plymouth, is assigned to be the rendezvous of any of the detached militia.

Every harbor or port within the state has a compact settlement, and generally the country around the harbors is populous. The places contemplated in general Dearborn's specification, as the rendezvous of the detached militia, excepting in one or two instances, contain more of the militia than the portion of the detached militia assigned to them. The militia are well organized, and would undoubtedly prefer to defend their firesides, in company with their friends, under their own officers, rather than be marched to some distant place, while strangers might be introduced to take their places at home.

In Boston, the militia is well disciplined, and could be mustered in an hour, upon any signal of an approaching enemy; and in six hours, the neighboring towns would pour in a greater force than any invading enemy will bring against it.

The same remark applies to Salem, Marblehead, and Newburyport; places, whose harbors render an invasion next to impossible. In all of them, there are in addition to the common militia, independent corps of infantry and artillery, well disciplined and equipped, and ready, both in disposition and means, to repair to any place, where invasion may be threatened, and able to repel it; except it should be made by a fleet of heavy ships, against which, nothing, perhaps, but strong fortifications, garrisoned by regular troops, would prove any defence, until the enemy should land; when the entire militia would be prepared to meet them.

Kennebunk is unassailable by any thing but boats, which the numerous armed population is competent to resist. Portland has a militia and independent corps, sufficiently numerous for its defence; and the same is the case with Wiscasset and Castine.

Against predatory incursions, the militia of each place would be able to defend their property, and in a very short time they would be aided, if necessary, by the militia of the surrounding country. In case of a more serious invasion, whole brigades, or divisions, could be collected, seasonably for defence. Indeed, considering the state of the militia, in this commonwealth, I think there can be no doubt, that detaching a part of it, and distributing it into small portions, will tend to impair the defensive power.

I have thus freely expressed to you my own sentiments, and so far as I have heard, they are the sentiments of the best informed men. I am fully disposed to afford all the aid to the measures of the national government, which the constitution requires of me; but, I presume, it will not be expected, or desired, that I shall fail in the duty which I owe to the people of this state, who have confided their interests to my care.

I am sir, with respect,

Your most obedt. and humble servt.

CALEB STRONG.

The hon. William Eustis, Secretary of War.

To his excellency the Governor, and the honorable the Council, of the Commonwealth of Massachusetts; the undersigned, justices of the supreme judicial court, have considered the questions proposed by your excellency and honors, for their opinion.

By the constitution of this state, the authority of commanding the militia of the commonwealth.

is vested exclusively in the governor, who has all the power incident to the office of commander in chief, and is to exercise them personally, or by subordinate officers, under his command, agreeably to the rules and regulations of the constitution, and the laws of the land.

While the governor of the commonwealth remained in the exercise of these powers, the federal constitution was ratified; by which was vested in the congress, a power to provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions, and to provide for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers.

The federal constitution further provides, that the president shall be commander in chief of the army of the United States, and of the militia of the several states, when called into the actual service of the United States.

On the construction of the federal and state constitutions, must depend the answers to the several questions proposed. As the militia of the several states may be employed in the service of the United States for the three specific purposes of executing the laws of the union, of suppressing insurrections, and of repelling invasions, the opinion of the judges is requested, whether the commanders in chief of the militia of the several states have a right to determine whether any of the exigencies aforesaid exist, so as to require them to place the militia, or any part of it, in the service of the United States, at the request of the president, to be commanded by him, pursuant to acts of congress.

It is the opinion of the undersigned, that this

right is vested in the commanders in chief of the militia of the several states.

The federal constitution provides, that whenever either of those exigencies exist, the militia may be employed pursuant to some act of congress, in the service of the United States; but no power is given either to the president or to congress to determine that either of the said exigencies do in fact exist. As this power is not delegated to the United States by the federal constitution, nor prohibited by it to the states, it is reserved to the states respectively; and from the nature of the power, it must be exercised by those with whom the states have respectively entrusted the chief command of the militia.

It is the duty of these commanders to execute this important trust, agreeably to the laws of their several states respectively, without reference to the laws or officers of the United States, in all cases except those specially provided in the federal constitution. They must therefore determine when either of the special cases exist, obliging them to relinquish the execution of this trust, and to render themselves and the militia subject to the command of the president. A different construction, giving to congress the right to determine when these special cases exist, authorizing them to call forth the whole of the militia, and taking them from the commanders in chief of the several states, and subjecting them to the command of the president, would place all the militia, in effect, at the will of congress, and produce a military consolidation of the states, without any constitutional remedy, against the intentions of the people when ratifying the constitution. Indeed, since passing the act of congress of February 28th, 1795, chapter 101, vesting in the president the power of call-

ing forth the militia when the exigencies mentioned in the constitution shall exist, if the president has the power of determining when those exigencies exist, the militia of the several states is in effect at his command, and subject to his control.

No inconveniences can reasonably be presumed to result from the construction which vests in the commanders in chief of the militia in the several states, the right of determining when the exigencies exist, obliging them to place the militia in the service of the United States. These exigencies are of such a nature that the existence of them can be easily ascertained by, or made known to, the commanders in chief of the militia; and when ascertained, the public interest will produce prompt obedience to the acts of congress.

Another question proposed to the consideration of the judges, is, whether, when either of the exigencies exist, authorizing the employing of the militia in the service of the United States, the militia thus employed can be lawfully commanded by any officer but of the militia, except by the president of the United States?

The federal constitution declares, that the president shall be commander in chief of the army of the United States. He may undoubtedly exercise this command by officers of the army of the United States, by him commissioned according to law. The president is also declared to be the commander in chief of the militia of the several states, when called into the actual service of the United States. The officers of the militia are to be appointed by the states, and the president may exercise his command of the militia by officers of the militia duly appointed; but we know of no constitutional provision, authorizing any officer of the army of the United States to command the militia, or autho-

rizing any officer of the militia to command the army of the United States. The congress may provide laws for the government of the militia, when in actual service; but to extend this power to the placing them under the command of an officer, not of the militia, except the president, would render nugatory the provision, that the militia are to have officers appointed by the states.

The union of the militia in the actual service of the United States, with troops of the United States, so far as to form one army, seems to be a case not provided for or contemplated in the constitution. It is, therefore, not within our department to determine on whom the command would devolve, on such an emergency, in the absence of the president. Whether one officer, either of the militia or of the army of the United States, to be settled according to military rank, should command the whole; whether the corps must be commanded by their respective officers, acting in concert, as allied forces; or what other expedient should be adopted, are questions to be answered by others.

The undersigned regret that the distance of the other justices of the supreme judicial court, renders it impracticable to obtain their opinions seasonably upon the questions submitted.

(Signed)

THEOPHILUS PARSENS.
SAMUEL SEWALL.
ISAAC PARKER.

Extract of a letter from General Dearborn, to the Secretary of War, dated military district No. 1, headquarters, Boston, July 14, 1814.

SIR—From the exposed and unprotected situation of the military posts in this harbor, and the

seaboard of this state generally, and the threats and daily depredations of the enemy, I have concluded it my duty to exercise the authority vested in me by the president of the United States, by requesting the governor to order out a detachment of artillery and infantry.

A copy of my letter to governor Strong, and of his answer, are enclosed.



Copy of a letter from General Dearborn, to his excellency Caleb Strong, Governor of the state of Massachusetts, dated military district No. 1, headquarters, Boston, July 8, 1814.

SIR—The existing state of alarm on the seaboard of this commonwealth, arising from the daily depredations committed by the enemy on our coast, renders it desirable to afford some additional protection to the citizens generally on the seacoast, and especially to the principal towns and villages; and by virtue of authority derived from the president of the United States, I deem it my duty, at this time, to request that your excellency will be pleased to give the necessary orders for having detached, as early as circumstances will permit, armed and equipped as required by law, one major of artillery, two captains, eight lieutenants, thirteen sergeants, eleven corporals, six musicians, and two hundred privates; and one lieutenant colonel of infantry, two majors, ten captains, thirty subalterns, one adjutant, one quartermaster, one paymaster, one sergeant major, one quartermaster sergeant, two principal musicians, fifty sergeants, fifty corporals, twenty musicians, and nine hundred privates, to remain in the service of the United States for the term of three months, unless sooner discharged by order of the president of the United States. As it will be ne-

cessary to have the artillery and infantry placed at the different posts on the seaboard of this state, it would be desirable that, as far as practicable, they would be detached from the vicinity of the respective posts. The intended distribution of the detachment will be communicated to the adjutant general of the state, previous to his issuing the necessary orders. The proportion of officers, noncommissioned officers, musicians, and privates, is in conformity with the present regulations of the department of war, from which I am not authorized to admit of any material deviation.

Copy of a letter from his excellency Caleb Strong, Governor of the state of Massachusetts, to General Dearborn, dated Northampton, July 12, 1814.

SIR—This morning I received your letter of the 8th instant. As you propose to communicate to general Brooks your views, concerning the particular destination of the militia to be called out for the defence of the towns on the seacoast of this state, I have written to him on the subject.

Your suggestion, that the men should be detached, as far as may be, from the vicinity of the respective posts, I think is perfectly proper, and I have no doubt you will be able to make such arrangements with general Brooks as will be satisfactory.

Extract of a letter from General Dearborn, to the Secretary of War, dated military district No. 1, headquarters, Boston, September 5, 1814.

SIR—Having received such information as is entitled to full credit, that the enemy, with a formidable naval and land force, has arrived in Penobscot bay, and taken possession of Castine; and

presuming his force, after forming a place of arms at Castine, will, with such reinforcements as he may receive from Halifax, in addition to the naval force now in Boston bay, attempt the destruction of the public ships and other public and private property on the seaboard, I have deemed it necessary to request the governors of this state and New Hampshire, to order out, for the defence of Boston harbor, Portsmouth, Portland, and that part of the district of Maine between Kennebeck river and Penobscot, five thousand two hundred infantry, and five hundred and fifty artillery, for the term of three months, unless sooner discharged.

Extract of a letter from H. Dearborn, to the Secretary of War, dated headquarters, district No. 1, Boston, October 15, 1814.

SIR—In obedience to the direction in your letter, of the 27th ultimo, on the 2d instant I made a formal requisition on governor Strong, for three hundred militia, to guard the prisoners at Pittsfield, and I enclosed to him a copy of your letter, for the purpose of showing him the necessity of his compliance. Having waited until yesterday morning without any answer from his excellency, I directed one of my aids to call on the adjutant general of the state, to ascertain whether he had received any order for making out the detachment for Pittsfield. The answer was, that no direction had been received from the governor to make such detachment.

Copy of a letter from his excellency Caleb Strong, Governor of the state of Massachusetts, to the Secretary of War, dated Boston, September 7, 1814.

The troops of the United States which at different periods were stationed on the seacoast of

this state, have been afterwards ordered to join the army on the western frontiers, so that very few have remained in the state. We have, therefore, found it necessary, in the course of the last and present year, to call out small bodies of the militia, as guards to the towns most exposed. As the danger has increased, the number of detached militia has been augmented, and I have now issued the enclosed general order, for the protection of Boston, and the towns and property in its neighborhood, and shall immediately issue an order of a similar kind, for the security of the district of Maine.

A few weeks since, agreeably to the request of general Dearborn, I detached eleven hundred militia, for three months, for the defence of our sea-coast, and placed them under his command, as superintendent of this military district; but such objections and inconveniences have arisen from that measure, that it cannot now be repeated. The militia called out on this occasion will be placed under the immediate command of a major general of the militia.

I will thank you, sir, to consult with the president, and inform me whether the expenses thus necessarily incurred for our protection, will be ultimately reimbursed to this state, by the general government; and I shall be particularly obliged if you will favor me with an answer as soon as may be, as the legislature of the state will meet on the 5th of the next month.

GENERAL ORDERS.

Commonwealth of Massachusetts, headquarters, Boston,
September 6, 1814.

The war between the United States and Great Britain, having lately become more destructive,

in consequence of violations of our territory, by the forces of the enemy, which continue to menace our cities and villages, the shipping in our harbors, and private property on shore; his excellency the commander in chief orders the whole of the militia to hold themselves in readiness to march at a moment's warning, with arms, ammunition, and accoutrements, as the laws of the United States, and of this state, require. Every man must, likewise, be provided with a good knapsack and blanket. Captains of companies must realize it to be one of their most solemn and imperious duties, to see the law respecting arms and equipments efficaciously executed: but the commander in chief relies on the concurring aid of all the general and field officers, in encouraging the company officers in the discharge of their duty. The major generals and commanding officers of divisions, will give the necessary orders for an immediate inspection of their several regiments, by companies. Every instance of deficiency of arms or equipments should be forthwith supplied by the delinquent individual, or by the town to which he may belong, agreeably to the requirements of the militia law.

The officers commanding regiments, battalions, and companies of artillery, will pay special attention, at this interesting moment, to the state of their field pieces, their carriages, and tumbrils; and see that every thing appertaining to them is in the most perfect order for marching, and for action, and particularly that suitable horses are always engaged, and ready at any moment to be attached to their pieces, that they may be moved to any point required, with celerity. All the companies of artillery now to be called into immediate service, besides the requisite supplies of fixed and

other ammunition, will be furnished by the quartermaster general, with prolonges and bricoles. The legislature of this state, always proud of its militia, has been particularly liberal in its artillery establishment: and the commander in chief promises himself, that, emulating the brilliant example of Knox and his heroic associates, in the artillery of the revolution, they will be equally distinguished for their discipline as soldiers, and for their gallantry in the field.

Under possible events, the cavalry of the several divisions may be in requisition. Every motive, therefore, of love of country, of honor, and sympathy for their fellow citizens who may be suffering the perils of war, will prompt them to maintain the most perfect state of preparation, and to move, when called to the scene of action, with all the rapidity of which cavalry is susceptible. The general officers, and the field officers of cavalry, as well as the company officers, will direct their attention to the quality of the horses, and suffer no man to be mounted but upon a horse sound and fit for actual service. A few bad horses may occasion irretrievable disaster.

The commander in chief having thus called the attention of all officers and soldiers of the militia to the observance of their several duties, at this eventful crisis, the more effectually to meet impending danger, orders, that all the flank companies, whether of light infantry, grenadiers, or riflemen, of the 1st and 2d brigades of the 1st division; two companies, viz: the one at Andover, and the other at Haverhill, of the 2d division; all the companies of the 3d division, excepting the two companies in Charlestown; four companies of the 4th division; five companies of the 5th division; eight companies of the 7th division; and two compar

nies of the 9th division, do immediately march to the town of Boston, unless (in the mean time) otherwise directed. Each company will march to its place of destination by itself, without waiting for any other corps.

These companies, when assembled, will be arranged into regiments, or otherwise, as circumstances may dictate; and, with the addition of twelve companies of artillery, will form the elite, or advance corps of the Massachusetts' militia. The field officers to command the regiments, and a general officer to command the whole, will hereafter be designated in general orders. The several companies of artillery, to be annexed to the advance corps, will be furnished by the following divisions, viz: two companies from the 1st brigade, and one company from the 2d brigade of the 3d division; four companies from the 4th division; one company from the 5th division; and four companies from the 7th division.

Besides the abovementioned companies, the commander in chief orders a detachment of sixteen companies of infantry to be immediately made from the fourth division, properly officered, and arranged into two regiments, which will march to Boston without the least unnecessary delay. Major general Mattoon is charged with the arrangement of the regiments.

From the 9th division the commander in chief orders eight companies of infantry to be detached, properly officered, formed into a regiment, and marched to Boston. Major generals Mattoon and Whiton will assign field officers, for the troops to be detached from their respective divisions; and the commander in chief relies on their experience and zeal to carry this order into the most prompt and energetic effect. As soon as the troops shall

commence their march, each major general will give notice of it to the adjutant general.

All the troops must be well armed, accoutred, and equipped, and provided with ammunition, provisions, knapsacks, and blankets, as the law requires. The men will be supplied with rations when they arrive at the place of destination, and will receive pay from the time of their being embodied.

The security of the town and harbor of Boston being an object of primary importance, the commander in chief, while he wishes to direct the principal energies of the state to the attainment of this end, is solicitous to render the militia of Boston itself as efficient as possible. With this view he orders the infantry of the 3d brigade of the 1st division, commanded by brigadier general Welles, to be called out by regiments, in rotation, two days successively, for the purpose of improving their discipline, already respectable, and of enabling them to practise the higher duties of the field. This order is committed to brigadier general Welles, whose knowledge in tactics, and animated zeal in the service of his country, must ensure to his exertions the highest effect. The order will be continued in operation until revoked. The flank companies of this brigade will be reserved for other service.

The troops called into actual service by this order, will serve three months after they arrive at their ultimate rendezvous, unless sooner discharged.

By his excellency's command,

Adjutant general.

Copy of a letter from James Monroe, Secretary of War, to his excellency Caleb Strong, Governor of Massachusetts, dated September 17, 1814.

SIR—I have had the honor to receive your excellency's letter of the 7th instant

The attack of the enemy on Baltimore, and probable eventual attack on other places, with the heavy duties incident thereto, pressing on this department, have prevented my answering it at an earlier day.

It may be satisfactory to your excellency for me to explain the views and principles on which this government has acted, in regard to the defence of our eastern frontier.

It was anticipated, soon after the commencement of the war, that while it lasted, every part of the union, especially the seaboard, would be exposed to some degree of danger, greater or less, according to the spirit with which the war might be waged. It was the duty of the government to make the best provision against that danger, which might be practicable, and it was proper that the provision should continue while the cause existed.

The arrangement of the United States into military districts, with a certain portion of the regular force, artillery and infantry, under an officer of the regular army, of experience and high rank, in each district, with power to call for the militia, as circumstances might require, was adopted with a view to afford the best protection to every part, that circumstances would admit.

It was presumed that the establishment of a small force of the kind stated, constituting the first elements of an army, in each district, to be aided by the militia, in case of an emergency, would be adequate to its defence. Such a force of

infantry and artillery, might repel small predatory parties, and form a rallying point for the militia at the more exposed and important stations, in case of more formidable invasion. A regular officer of experience, stationed in the district, acting under the authority, and pursuing the will, of the government, might digest plans for its defence; select proper points for works, and superintend the erection of them; call for supplies of ordnance, for tents, and camp equipage; for small arms, and other munitions of war; call for the militia, and dispose of the whole force. These duties, it was believed, could not be performed with equal advantage by the officers of the militia, who, being called into service for short terms, would not have it in their power, however well qualified they might be in other respects, to digest plans, and preserve that chain of connection and system in the whole business, which seemed indispensable. On great consideration this arrangement was deemed the most eligible that could be adopted, under the authority of the United States; indeed none other occurred that could be placed in competition with it. In this mode the national government acts, by its proper organs, over whom it has control, and for whose engagements it is responsible.

The measures which may be adopted by a state government, for the defence of a state, must be considered as its own measures, and not those of the United States. The expenses attending them are chargeable to the state, and not to the United States.

Your excellency will perceive, that a different construction would lead into the most important, and, as is believed, into the most pernicious consequences. If a state could call out the militia,

and subject the United States to the expense of supporting them, at its pleasure, the national authority would cease, as to that important object, and the nation be charged with expenses, in the measures producing which, the national government had no agency, and over which it could have no control. This, however, though a serious objection to such a construction, is not the most weighty. By taking the defence of the state into its own hands, and out of those of the general government, a policy is introduced, on the tendency of which I forbear to comment. I shall remark, only, that if a close union of the states, and a harmonious co-operation between them and the general government, are at any time necessary for the preservation of their independence, and of those inestimable liberties which were achieved by the valor and blood of our ancestors, that period may be considered as having arrived.

It follows, from this view of the subject, that if the force which has been put into service by your excellency, has been required by major general Dearborn, or received by him, and put under his command, that the expenses attending it will be defrayed by the United States. It follows, likewise, as a necessary consequence, that if this force has been called into service, by the authority of the state, independently of major general Dearborn, and be not placed under him, as commander of the district, that the state of Massachusetts is chargeable with the expense, and not the United States. Any claim which the state may have to reimbursement, must be judged of hereafter, by the competent authority, on a full view of all the circumstances attending it. It is a question which lies beyond the authority of the executive.

Your excellency will perceive, that this govern-

ment has no other alternative than to adhere to a system of defence, which was adopted on great consideration, with the best view to the general welfare, or to abandon it, and with it a principle held sacred, thereby shrinking from its duty, at a moment of great peril; weakening the guards deemed necessary for the public safety; and opening the door to other consequences not less dangerous.

By these remarks, it is not intended to convey the idea, that a militia officer, of superior grade, regularly called into service, shall not command an officer of the regular army of inferior grade, when acting together. No such idea is entertained by the government. The militia are relied on essentially, for the defence of the country; in their hands every thing is safe. It is the object of the government to impose on them no burdens which it may be possible to avoid; and to protect them in the discharge of their duties; in the enjoyment of all their rights.

The various points which are attacked and menaced by the enemy, especially in this quarter, where they are waging, in considerable force, a predatory and desolating warfare, make it difficult to provide, immediately, for all the necessary expenditures. Any aid which the state of Massachusetts may afford to the United States, to meet those expenditures, will be cheerfully received; and applied to the payment and support of the militia of that state, in the service of the United States.

It will be proper that the money thus advanced, should be deposited in some bank in Boston, that the disbursement of it may be made under the authority of the government of the United States, as in similar cases elsewhere. Credit will be

given to the state for such advances, and the amount be considered a loan to the United States.

I have the honor to be, &c.

A similar letter was written to the governor of Connecticut.

Sharon, Connecticut, July 2, 1812.

SIR—His excellency, governor Griswold, has received from major general Henry Dearborn, a letter under date of the 22d of last month, requesting that five companies of the militia of this state, detached conformably to the act of congress of April 10, 1812, may be ordered into the service of the United States, to wit: two companies of artillery, and two companies of infantry, to be placed under the command of the commanding officer at Fort Trumbull, near New London, and one company of artillery, to be stationed at the battery, at the entrance of the harbor of New Haven.

Impressed with the deep importance of the requisition, and the serious considerations it involves, his excellency deemed it expedient to convene the council, at Hartford, on Monday, the 29th ultimo. He has taken their advice upon this interesting subject, and has formed his own deliberate opinion; but as he is under the necessity of leaving the state, on a journey, for the recovery of his health, it becomes my duty, as lieutenant governor, to communicate to you the result.

The assurance contained in the governor's letter of the 17th June last, in answer to yours of the 12th of the same month, was necessarily given in full confidence that no demand would be made by general Dearborn, but in strict conformity to the constitution and laws of the United States.

His excellency regrets to perceive that the present requisition is supported by neither.

The constitution of the United States has ordained, that congress may "provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions" Accordingly the acts of congress of February, 1795, and of April, 1812, do provide for calling forth the militia in the exigencies abovementioned.

The governor is not informed of any declaration made by the president of the United States, or of notice by him given, that the militia are required "to execute the laws of the union, suppress insurrections, or repel invasions," or that "the United States are in imminent danger of invasion." As, therefore, none of the contingencies enumerated in the constitution, and recognized by the laws, are known to have taken place, his excellency considers that no portion of the militia of this state, can, under existing circumstances, be withdrawn from his authority.

Farther, if the call had been justified by either of the constitutional exigencies already recited, still, in the view of his excellency, an insuperable objection presents itself, against placing the men under the immediate command of an officer or officers of the army of the United States.

The appointment of the officers of the militia, is, by the constitution, expressly reserved "to the states, respectively." In the event of their being called into the actual service of the United States, in the cases before specified, the laws of the United States provide for their being called forth as militia, furnished with proper officers by the state. And, sir, it will not escape your recollection, that the detachment from the militia of this state, under the act of congress, of the 10th of April

last, is regularly organized into a division, consisting of brigades, regiments, battalions, and companies, and supplied, conformably to law, with all the necessary officers. His excellency conceives then that an order to detach a number of companies, sufficient for the command of a battalion officer, and place them under the command of an officer of the United States, cannot, with propriety, be executed, unless we were also prepared to admit, that the privates may be separated from their company officers and transferred into the army of the United States; thus leaving the officers of the militia without any command except in name, and in effect impairing, if not annihilating the militia itself, so sacredly guarantied by the constitution to the several states.

Under these impressions, the governor has thought proper, by and with the advice of the council, to refuse a compliance with the requisition of major general Dearborn.

His excellency is sincerely disposed to comply promptly with all the constitutional requests of the national executive; a disposition which has ever been manifested by the government of this state; and he laments the occasion which thus compels him to yield obedience to the paramount authority of the constitution and laws of the United States. He trusts the general government will speedily provide an adequate force for the security and protection of the seacoast. In the mean time, his excellency has issued the necessary orders to the general officers commanding the militia in that quarter, to be in readiness to repel any invasion which may be attempted upon that portion of the state, and to co-operate with such part

of the national forces as shall be employed for the same purpose.

With great respect, I am, &c.

JOHN COTTON SMITH.

The hon. William Eustis, Secretary of War.

Extract of a letter from his excellency John Cotton Smith, to the Secretary of War, dated New London, June 7, 1813.

I arrived at this place on the 5th instant, and found about six hundred of the militia of this state stationed on the two sides of the river, who had been assembled under the circumstances mentioned in my letter from Hartford of the 2d instant.

I shall not disband any part of the militia until a communication is received from commodore Decatur; being heartily disposed to assist his views, in affording all possible protection to the squadron and harbor. I will address you again before my departure from this place, and in the mean time, am desirous of receiving the instructions of the president as to the course proper to be pursued.

Extract of a letter from his excellency John Cotton Smith, to the Secretary of War, dated New London, June 12, 1813.

On a consultation with commodore Decatur, as proposed in my last, it was concluded to retain the whole of the militia then assembled, until their places could be supplied by two regiments, to be drawn from the neighborhood. Orders were issued accordingly.

But on the arrival of the two regiments, infor-

mation was received that a bomb ketch had been added to the enemy's squadron, and that preparations were evidently making for an attack. At the instance of commodore Decatur, who knows best his own capacity of meeting the exigency, and on whose opinion, therefore, I must greatly rely, the whole force was directed to remain, excepting such individuals as were under a pressing necessity of returning to their homes. The number of militia now here, is about fifteen hundred, including officers.

Extract of a letter from his excellency John Cotton Smith, to the Secretary of War, dated New London, June 16, 1813.

Your favor of the 12th instant is received, and has afforded me much pleasure.

The details in my letter of the 12th instant I trust will fully justify, in the view of the president, the additional force it was then thought necessary to employ. After closing my despatches on that day, the hostile fleet got under sail; approached the harbor; fired several shots at the guards; and to all appearance were meditating an attack.

Whether the display of so respectable a body of troops, or some other cause, discouraged them from the attempt, is not known. The enterprize was, for that time, abandoned; and on the 14th two of their ships passed eastward, out of the sound.

As soon as information of this diminution of the squadron was received, orders were issued to disband the two regiments which were first brought into the field; and a farther reduction of the troops is this day made, to the number mentioned in your letter.

Extract of a letter from his excellency John Cotton Smith, to the Secretary of War, dated state of Connecticut, Sharon, August 1, 1814.

Your letter of the 4th July last, reached me on the 16th of the same month.

Although there appears to be no act of congress, expressly authorizing a detachment from the militia, for the purpose mentioned in your communication; yet the respect due to a recommendation from the president, having for its object the defence of the country, induced me, without unnecessary delay, to convene the council of the state, and to submit the proposition to their consideration.

That honorable body having advised the executive to detach the number of militia suggested, as the proportion of Connecticut, orders were immediately issued to that effect; and you will be speedily informed, by the proper officer, of their execution.



Copy of a letter from General Cushing to his excellency Governor Smith, dated military district No. 2, headquarters, New London, August 1, 1814.

SIR—I have been notified by the secretary of war, that on the fourth day of July last, a requisition was made on the executive of the state of Connecticut for a body of militia, to be organized and held in readiness for immediate service; and I am instructed by him, “in case of actual or menaced invasion of the district under my command, to call for a part or the whole of the quotas assigned to the states of Connecticut and Rhode Island, which shall have been organized and equipped under the aforesaid requisition.” But in the performance of this duty, I am charged “to avoid all unnecessary calls; to proportion the calls

to the exigency, and to have inspected, without delay, all corps entering on service, to the end that men, who, from any cause, are unfit therefor, be promptly discharged. and that a due proportion, in all cases, be maintained, between officers and privates ”

It is not deemed necessary to call any part of the quota of Connecticut into the service of the United States at this time; but it is desirable that the draft be made, and the men held in readiness for immediate service, whenever circumstances may indicate an intention, on the part of the enemy, to invade any part of the state. And I have, therefore, to request your excellency to inform me, whether the quota of militia required of this state by the aforesaid requisition, has been, or will be, “organized and held in readiness for immediate service?” whether, on my requisition, the whole or any part of the said militia will be ordered into the service of the United States, for the purposes beforementioned? whether my requisition for this purpose must be made to your excellency in the first instance, or to such general and field officers as may have been detailed for this service? and, generally, that your excellency would be pleased to favor me with such information and opinions, in relation to the objects and designs of the enemy, and to the defence of this state, as you may think proper to communicate.

I have only to add, that as commanding officer of this military district, it will be my constant endeavor to preserve the strictest harmony and good will between the national troops and the militia, and that the rights of the latter, as secured by the constitution and laws of our country, shall be

duly respected by every officer and soldier under my command.

Extracts of a letter from John C. Smith to General Cushing, dated state of Connecticut, Sharon, August 4, 1814.

“ I have the pleasure to acknowledge the receipt of your letter of the 1st instant.

“ The adjutant general is directed to send you a transcript of the general orders, issued on the 28th ultimo, for organizing and holding in readiness a body of militia, pursuant to a recommendation from the president of the United States. To that document I must refer you for answers to most of your inquiries.”

“ The militia, whenever their services are required, will expect to march under orders received from their commander in chief; and such orders as the exigency demands, you may rest assured shall be promptly given.”

GENERAL ORDERS.

State of Connecticut, Hartford, July 28, 1814.

The commander in chief has received a communication from the president of the United States, inviting the executives of certain states to organize and hold in readiness, for immediate service, a corps of ninety-three thousand five hundred men, “ as a measure of precaution to strengthen ourselves on the line of the Atlantic,” and assigning as the quota of Connecticut three hundred artillery, and two thousand seven hundred infantry, with a detail of general and staff officers.

The commander in chief having thought proper, by advice of the council, to comply with the re-

commendation, directs that dispositions be immediately made for carrying the same into effect.

Accordingly, the number of artillery and infantry abovementioned, including the usual regimental officers, will be detached from the militia of the state, exempting from the draft, such as have, either in person or by substitute, performed a tour of duty the present season. Volunteer uniform companies will be accepted. The whole to be formed into four regiments, and duly officered. Their places of rendezvous as follows, to wit: for the first regiment, Hartford, for the second, New Haven, for the third, Norwich, and for the fourth, Fairfield. One major general and one brigadier general will be detailed, in the usual manner; also, one deputy quartermaster general; and, instead of an assistant adjutant general, (there being no such officer in the militia of this state,) there shall be detailed one division inspector.

The troops thus detached are to be completely armed and equipped according to law, and until otherwise directed, will be held in readiness to march at a moment's warning, for the purpose of repelling invasions of the enemy, under such orders as they shall receive from the commander in chief.

Notwithstanding this arrangement, it is confidently expected that the whole body of militia, and every other description of military force, will bear in mind the general orders issued on the 19th of April last, and will stand in complete readiness for the defence of the state, at this unusual period of difficulty and danger.

By order,

EBEN. HUNTINGTON,
Adjutant General.

Norwich, August 11, 1814.

SIR—By desire of his excellency governor Smith, I have forwarded a copy of his general order, of 28th July, for your information, on some points of inquiry made to him.

I am, &c

EBEN. HUNTINGTON,

Adjutant General.

Brigadier General Cushing.

Copy of a letter from General Cushing to the Governor of Connecticut, dated military district No. 2, headquarters, New London, August 10, 1814.

SIR—By major general Williams' communication of this date your excellency will be fully informed of the state of things in this quarter; and by the enclosed district order, that the militia ordered out by him, at my request, are to form a brigade, in the service of the United States, under the command of brigadier general Isham.

Your excellency's communication of the 4th instant, was received this morning, since which general Williams has furnished me with your general order of the 28th of July; but I have heard nothing from the adjutant general on this subject.

It is my opinion that the safety of this state requires that fifteen hundred infantry, and two companies of artillery, duly officered, and to be commanded by a brigadier general of this state's quota of ninety-three thousand five hundred men, required by the president of the United States "to be organized and held in readiness for immediate service," should be immediately detached from the said quota, and ordered to this place, for the purpose of relieving the militia now on duty here, if circumstances should justify the measure, or to increase our means of defence, in the

event of more formidable and vigorous operations on the part of the enemy. And I have the honor to request your excellency to make and place the said detachment under my command. It is desirable that the brigadier general to be detached on this service, should be instructed by your excellency to report himself to me, by letter, immediately after he shall have been so detached, to inform me of his route to this place, and the probable time of his arrival; and to receive and obey any orders he may receive from me, while on his march.

Copy of Adjutant General P. P. Schuyler's orders, dated military district No. 2, headquarters, New London, August 10, 1814.

DISTRICT ORDERS.

The militia of this state, ordered into service yesterday, by major general Williams, at the request of the commanding general of the district, are to be considered in the service of the United States, and will form a brigade, under the command of brigadier general Isham, who will furnish a return, by regiments, to the adjutant general of the district, the soonest possible.

Until the proper returns of general Isham's brigade can be obtained, the contractor will issue provisions on the requisitions of major Godard, countersigned by the commanding general; and the major will be held responsible for the proper application of all provisions so received, and which must be covered by regular returns, so soon as the strength of the brigade can be ascertained.

By order of the commanding general,

P. P. SCHUYLER,

Adjutant General.

Extract of a letter from Brigadier General T. H. Cushing to the Secretary of War, dated military district No. 2, headquarters, New London, August 12, 1814. 10 o'clock, P. M.

By the letter of the 11th instant, from governor Smith, of which I enclose a copy, marked H, you will see that he has ordered the militia called for on the 10th; but for the reasons therein stated, claims the right of placing a major general at their head. I shall endeavor to satisfy him that, with the number of men called for, a major general cannot be received; but if he should persist, how is the difficulty to be gotten over?

H.

Extract of a letter from John Cotton Smith to General Cushing, dated state of Connecticut, Sharon, August 11, 1814. 9 o'clock, A. M.

Your communication, by express, is this moment received.

Major general Williams is directed to retain the militia now on duty until they shall be relieved by the force ordered out, conformably to your request, or unless circumstances shall justify an earlier dismissal.

It is probable the draft for the new detachment is not completed; but brigadier general Lusk, detailed under the orders of the 28th ultimo, is instructed, by the return of the express, to hasten it as fast as possible, and to march, without a moment's delay, with the *first* and *third* regiments, whose places of rendezvous are Hartford and Norwich. Their numbers will make the compliment you require, including artillery.

As the force requested by you, will constitute a majority of the detachment, there is an evident

propriety that it should be commanded by the major general detailed pursuant to the recommendation of the president. He will accordingly be directed to enter the service, as soon as the necessary arrangements will permit. In the mean time, brigadier general Lusk is ordered to report himself to you, agreeably to your desire.

Extract of a letter from brigadier general T. H. Cushing to the Secretary of War, dated military district No. 2, headquarters. New London, August 29, 1814.

I deem it proper, at this time, to lay before you a copy of my correspondence with governor Smith, from the 14th to the 28th instant, inclusive. Unwilling to relinquish his project for introducing a major general of militia into the service of the United States, the governor has attempted to prevail on me to accept a command of six hundred men, to be posted at New Haven, under the command of major general Taylor, who, it appears, must be provided for.

I have agreed to accept the men, if properly officered, because it will enable me to discharge an equal number, which must otherwise be marched from this neighborhood; but I have pointedly refused to recognize the major general, or to have the men mustered and supplied, on any other consideration but that of their being subject to my orders.

Extract of a letter from Brigadier General Cushing to his excellency John Cotton Smith, Governor of the state of Connecticut, dated military district No. 2, headquarters, New London, August 14, 1814.

A brigade in the army of the United States should consist of 2,000 men, and the detachment of militia required of your excellency, by my let-

ter of the 10th instant, does not exceed 1,700, which is probably less than any brigade of militia in the state of Connecticut. In asking for a brigade general to command this force, I have certainly gone as far as I am authorized by my instructions from the war department; which are, "that a due proportion, in all cases be maintained between officers and privates;" and I trust that, on reflection, your excellency will relinquish the idea of ordering a major general to assume the command of less than a complete brigade.

Should circumstances require a further call for men, to an extent equal to a major general's command, including the 1,700, I shall not fail to include that officer in my requisition.

Copy of a letter from Brigadier General Cushing to his excellency John Cotton Smith, Governor of the state of Connecticut, dated military district No. 2, headquarters, New London, August 24, 1814.

A copy of your excellency's letter to me of the 11th instant, has been transmitted to the secretary of war, and I have the honor to enclose an extract of a letter from him on the subject of militia drafts, and a copy of the rules referred to in his letter.

In acting on the laterequisition of the president, for 3,000 men, to be organized for the service of the United States, I had presumed that your excellency would have pursued the course suggested by that requisition, and formed the state's quota into three regiments, of 1,000 men each; and, under that impression, in my letter of the 10th instant, I did not express the number of privates, noncommissioned and commissioned officers, required. It now appears that a different course has been adopted, and the quota of the state

formed into four regiments; but, although, in point of form, there is considerable difference between the 3,000 men, as organized by your excellency, and the same number, as organized in the army of the United States; yet, as a due proportion between officers and privates will be maintained, and no additional expense incurred, I shall consider the spirit and intention of the rule as having been fully complied with, by the organization which your excellency has been pleased to direct.



Extract of a letter from his excellency John Cotton Smith, Governor of the state of Connecticut, to Brigadier General Cushing, dated Hartford, August 25, 1814.

As you seem, sir, not to have understood, correctly, the views of this government, with respect to the late detachment, it is fit that I state them to you distinctly.

The communication from the war department, under date of the 4th July last, relative to a detachment from the militia, for the purpose therein mentioned, did not assume the style of a "requisition," and for the obvious reason, that there existed no law to authorize it. The invitation (for such was its purport) was accepted by the executive of this state, from a desire to co-operate in what appeared to the president a proper measure of defence for the Atlantic coast.

The terms of compliance are contained in the general orders, issued on the 28th July, a transcript of which you have received. In organizing the regiment, I conformed as nearly as possible to the act of congress, passed the 8th May, 1792. I am not informed that there is now in operation any other act of the national legislature on that subject. If your instructions from the war de-

partment materially interfere with the requirements of this act, it is indeed a subject of regret, but not of doubt, as to the authority which ought, in such case, to prevail.

I am happy, however, to perceive, that you do not consider the difference as essentially varying the result.

Extract of a letter from Brigadier General Cushing to his excellency John Cotton Smith, Governor of the state of Connecticut, dated military district No. 2, headquarters, August 28, 1814.

Your excellency's letter of the 25th instant, was received last evening, and shall be submitted to the secretary of war by the next mail.

Not having the communication from the war department, under date of the 4th July, before me, when my letter to your excellency, of the 24th instant, was written, I inadvertently used the term requisition, when I should have employed that of invitation; and I beg leave to assure your excellency, that this was done without any intention or desire of giving to the invitation of the president, or the acceptance of your excellency, a different understanding from that originally intended.

Extract of a letter from Brigadier General T. H. Cushing to the Secretary of War, dated military district No. 2, headquarters, New London, September 2, 1814.

I have the honor to enclose a copy of a letter from governor Smith, of the 30th of August, with my reply of this date.

It is now pretty evident that the governor and council have determined that their militia shall not be commanded by an officer of the United States; and it is possible an attempt may be made

to withdraw the brigade now in service. I am, however, of opinion. that this will not be done before the meeting of the legislature.

Copy of a letter from John C. Smith to Brigadier General Cushing, dated Hartford, August 30, 1814.

SIR—Colonel Waid has delivered me your letter of the 28th instant.

In referring you to the views of this government, respecting the detachment lately organized, it was my design not to criticise your language, but to point your attention to the precise conditions upon which that detachment was formed. The right of command, you will perceive, is expressly reserved. The detachment thus constituted is accepted; and with a knowledge of the reservation just mentioned, you requested a large portion of the troops for public service. Whatever sentiments, therefore, may be entertained as to the right of the executive of the state, to direct its military force, when ordinarily employed in the national service, it surely cannot be questioned in the present instance. If, at your particular desire, brigadier general Lusk was ordered to report himself to you, in the manner suggested in my letter of the 11th instant, I trust it evinces a spirit of accommodation which will be duly appreciated.

I think, sir, you will be satisfied, upon reflection, that you should have requested the major general, when you called for a majority of the detachment; especially if you consider that another brigade of militia was at that time on duty; and from appearances the services of both might become necessary. That a brigadier general of the regular army, with no troops *in the field*, should

insist on the command of two entire brigades of militia, whose brigadier generals held senior commissions, would have produced a case which neither precedent nor principle could justify. To avoid so unusual and embarrassing a state of things, it became my duty to order the major general into service. Having been properly detailed, no casual diminution of numbers can affect his right of command

I enclose you the opinion of the council in relation as well to this point, as to the employment of a larger force at New Haven and Bridgeport. Their opinion is in perfect accordance with my own, and therefore will be carried into effect. The troops destined for these posts will arrive at New Haven on the 8th, and at Bridgeport on the 13th, of September next. If no officer of the United States appears to muster them, that duty will be performed by an officer of the militia, agreeably to the late act of congress. If supplies are withheld by your order, they will be furnished by the proper officers of the state, and charged over to the United States.

It is hoped the services of the third regiment may be dispensed with for the present

From the harmony with which the service was conducted the last season, under an arrangement not essentially dissimilar, I flattered myself that a temper equally conciliatory would distinguish the present campaign. Whilst I lament that any difference of opinion should exist, as to the particular mode of defending our country, at a moment when its dearest interests are in jeopardy, I cannot lose sight of the high duties which I am solemnly bound to discharge.

Extract of the proceedings of the Governor and Council, at a meeting held at Hartford, on the 24th day of August, A. D. 1814.

His excellency, the governor, laid before the council, a correspondence between him and brigadier general Cushing, in regard to the command of two regiments of the militia of this state, now in service, and requested the advice of the council thereon.

The council, on mature deliberation, cannot doubt the right or expediency, under existing circumstances, of having in service, from this state, a major general, authorized to command such portions of the military force as is, or may be, in service, for its defence.

Extract of a letter from General Cushing to John C. Smith, Governor of Connecticut, dated military district No. 2. headquarters, New London, September 2, 1814.

Your excellency's letter of the 30th of August, was received this morning, by the southern mail.

Whether I have understood "the views of the government (Connecticut) respecting the detachment lately organized," or not, is, in my estimation, a question of no importance at this time, since, by referring to my letter of the 10th of August, your excellency will there find the conditions on which the drafted militia, now in service, were asked for, and have been received into the service of the United States. If these conditions did not accord with the "views of this government," it is not for me to assign the motive which induced your excellency to make the detachment; but while I regret that any misunderstanding should exist on this subject, I feel confident that my communications have been too explicit to leave a doubt as to the course authoriz-

ed and enjoined by the government of the United States.

Extract of a letter from his excellency John Cotton Smith to the Secretary of War, dated state of Connecticut, Hartford, September 3, 1814.

In consequence of the exposed and defenceless situation of the town of New Haven, and borough of Bridgeport, I have thought proper, by the advice of the council, to order into service six hundred men, for the protection of these places

The general officer of the United States located at New London, has been advised of this procedure; and has also been requested to cause the troops to be duly musterèd and supplied.

He admits the propriety of the measure, but, as I understand, refuses to comply with the request, and on grounds which, in my view, are wholly inadmissible

It is my duty, sir, to inform you of these circumstances, and to express the assurance I feel, that you will order the requisite supplies to be immediately furnished.

Extract of a letter from his excellency John Cotton Smith to the Secretary of War, dated state of Connecticut, Hartford, September 14, 1814.

I am informed the agent of the United States, at New London, has refused any farther subsistence to the militia now on duty, in that vicinity, upon the unfounded pretext, that they are withdrawn from service by my authority. Unwilling to hazard the safety of those posts, and the national property in the river, by disbanding the troops, I have directed the commissary general of the

state to provide for them, until the pleasure of the president shall be known.

You will perceive the importance, sir, of apprizing me, without delay, whether the agent is to be countenanced in the course he has thought proper to adopt; and, also, how far I am to rely on the general government for assistance, in the necessary defence of the state.

A letter was written to the governor of Connecticut, in reply to these letters to the department of war, to the same effect with that to the governor of Massachusetts, of September 14, 1814.



Copy of a letter from James Monroe, Secretary of War, to his excellency John C. Smith, Governor of Connecticut, dated October 17, 1814.

SIR—I have had the honor to receive your excellency's communication of ——. The letters mentioned in it had been before received.

The regulations of this department, in conformity to the laws of the United States, having designated commands for different grades of general officers of the militia—two thousand men for a brigadier general; and general Cushing not having called for more than 2,000 men, at any time; and there not being more than that number of militia in the field, it was thought that the command of them ought not to be committed to a major general of the militia.

The tendency of such an arrangement would be, to take the force assembled for the defence of the military district No. 2, out of the hands of the officer to whom the president had entrusted it. It was on this principle, that my letter to your excellency, of the 17th September was addressed, and with intention to explain the principles on which the arrangements of this government were

made, for the defence of every part of the United States; which explanation I gave on a belief that it would be satisfactory, and that it was particularly my duty to give it, at this very important crisis of our affairs.

It is, however, distinctly to be understood, that if the whole quota assigned to Connecticut had been called into service, that it would have been proper to have committed the command to a major general of the militia, who, in cases where he and a brigadier general of the army of the United States acted together, would take the command of him.

I have the honor to be, &c.



Copy of a letter from T. H. Cushing, Brigadier General, to the Secretary of War, dated military district No. 2, headquarters, New London, September 12, 1814.

SIR—The enclosed copies marked A, B, C, and D, will show you the situation in which I am placed, with respect to the militia in the state of Connecticut, and that it will be impossible for me to repel any attack of the enemy within its limits, not directed against the forts in this harbor, or the very small and inconsiderable battery in the neighborhood of New Haven.

The letter of governor Smith was delivered to me yesterday morning, by the aid of major general Taylor. I inquired whether his general had been ordered into service by the government of the United States, and assured him, if this was the case, I would, most cheerfully, resign to him, not only the command of the drafted militia, but of this military district. He replied that general Taylor had no such orders; but that he had been ordered by governor Smith to take command of

the drafted militia of Connecticut, in the service of the United States, and would immediately assume the command, and issue his orders agreeably to the governor's instructions.

Finding that the usual report of the brigade was not furnished by brigadier general Lusk, I sent for him to inquire the reason for this neglect, and to admonish him of the consequences which would ensue, in the event of his failing to discharge the duties of his station, as an officer in the service of the United States, and, as such, not accountable to governor Smith, or any of his militia generals.

The brigadier requested a short time to make up his mind, as to the course he should pursue; and I heard nothing more from him until two o'clock this day, when his answer to my note was received, and the enclosed district order immediately issued.

I understand that general Taylor is making arrangements for the supply of Lusk's brigade, at this place, and in its neighborhood; and it will readily occur to you, that the power to call militia into service, vested in me by the president's proclamation, cannot be exercised to any beneficial result, since, the moment such militia shall have assembled, in pursuance of my requisition, they will be taken from me by state authorities.

A.

Copy of a letter from his excellency John Cotton Smith, Governor of the state of Connecticut, to Brigadier General Cushing, dated Hartford, September 9, 1814.

SIR—Conformably to the original arrangement, major general Taylor now goes to take the com-

mand of the militia on duty, at New London and its vicinity.

He will retain or reduce their present number, according to existing circumstances. Upon this and other subjects, connected with the safety of those posts, he is instructed, and will be disposed, to confer with you freely, and to promote, by all means in his power, that concert of operation on which the success of the service must essentially depend.

B.

Copy of a letter from Brigadier General Cushing to Brigadier General Lusk, commanding militia, dated military district No. 2, headquarters, New London, September 12, 1814.

SIR—The usual reports of the brigade of drafted militia under your command, in the service of the United States, was not delivered to the adjutant general of the district yesterday, and report says that you have received, and are acting under, the orders of a militia officer, not in the service of the United States.

It has, therefore, become necessary, that you assign a reason, in writing, for withholding your reports, and contradict or admit the fact, of your having received, and actually executing, the orders of an officer, not in the service of the United States.

C.

Copy of a letter from Brigadier General Lusk, of the militia, to Brigadier General Cushing, dated New London, September 12, 1814.

SIR—I have the honor to acknowledge the receipt of your note of this morning. The follow-

ing is an extract of the order of his excellency, the captain general, dated the 28th July, 1814.

“The troops thus detached, are to be completely armed and equipped according to law, and, until otherwise directed, will be held in readiness to march at a moment’s warning, for *the purpose of repelling invasions of the enemy, under such orders as they shall receive from the commander in chief.*”

The following is an extract of a letter of instruction to me, from governor Smith, dated Sharon, 11th August, 1814. “You will inform general Cushing, by letter, of your state of readiness, and take his directions as to the route and place or places of destination, and to conform to his instructions, *until the arrival of major general Taylor, who will take the command as soon as his health and the necessary arrangements will permit.*”

In addition to the above, major general Taylor issued his orders to me, under date of the 11th of September, 1814, directing me to discontinue calling at the office of the commanding general of the district for orders, and to obey no orders, excepting such as shall be issued under the authority of this state.

He has also required of me, regularly to make report to him of the forces under my command.

From a perusal of the foregoing extracts, you will readily infer the only answer to your interrogations which I have the power to make.

D.

Copy of district orders, dated military district No. 2, headquarters, New London, September 12, 1814.

The brigade of drafted militia from the state of Connecticut, having been withdrawn from the

service of the United States, by his excellency governor Smith; and brigadier general Lusk, the commanding officer of the said brigade, having refused to receive and obey the orders of the brigadier general commanding this military district, no further supplies, of any description, are to be delivered to him, or his brigade, for and on account of the United States, without an express written order from the brigadier general commanding, or from his superior officer, actually in the service of the United States.

By order of the commanding general,
P. P. SCHUYLER,
 Adjutant General.

Copy of a letter from William Jones to the Secretary of War, dated Providence, April, 22, 1812.

SIR—I have had the honor to receive your letter, under date of the 15th instant, requiring me to take effectual measures to detach five hundred of the militia of Rhode Island, and that they be armed and equipped for actual service, within the shortest period that circumstances will permit.

The general assembly of this state will be in session in a few days, when I shall embrace the earliest opportunity to lay the request before them.

Copy of a letter from William Jones to the Secretary of War, dated Providence, June, 18, 1814.

SIR—Your communication of the 12th instant came to hand by last evening's mail; and in reply, permit me to state, that for the quota of militia required by the act of congress, of April, 10, 1812, the general assembly of this state, at their session,

in May last, ordered a return of our militia made on or before the 4th of July next, and that therefrom a draft of the number required will be made, as soon as practicable, and ready for service.

Extract of a letter from William Jones to the Secretary of War, dated Providence, August 22, 1812.

I have not been able to obtain an entire return of the men drafted, as this state's quota of militia, alluded to in my last, until the 11th instant. It is now done, and the detachment organized, as per enclosed roll, and will be held in readiness to act, when, in my opinion, any of the exigencies provided for by the constitution, and referred to by the late act of congress under which they are detached, exists, agreeably to the opinion and advice of the council of this state, given me on the occasion.

Extract of a letter from his excellency William Jones, Governor of the state of Rhode Island, to the President of the United States, dated Providence, June 29, 1814.

The views of the general assembly, the council of war, and myself, will be discovered from the act of the assembly, passed at their late session, a copy of which Mr. Searle will present to you, with whom I request you will make all the necessary arrangements for carrying it into full effect.

He will discuss the subject of his mission fully, and I trust to your satisfaction, so that the state will, by the assistance of the United States, be placed in a posture of defence, at least against the predatory incursions of the enemy.

Extract of a letter from Nathaniel Searle, junior, to the President of the United States, dated Washington city, July 6, 1814.

The views of the general assembly, of the council of war, and of the governor, will be clearly discovered, in relation to this subject, from an act of the assembly, passed at their late June session, a copy of which I herewith present.

I beg leave, therefore, in behalf of the state by whose authority I am deputed, to solicit the peculiar attention of the president to her perilous and calamitous situation; to request of him a reimbursement of the expenditures already made, and the prompt provision of a military force for her protection; or that he will furnish, herewith, pecuniary means, by which she can place herself in an attitude of defence.

In General Assembly,
June session, A. D. 1814.

State of Rhode Island and }
Providence Plantations. }

An act providing for the defence of the state.

Sec. 1 *Be it enacted by the general assembly, and by the authority thereof it is enacted,* That his excellency the governor, by and with the advice and consent of the council of war, be, and he is hereby, authorized and requested to order into immediate service, according to the provisions of the constitution, and of the laws of the United States, such portion of the militia and chartered companies of this state, as he may think necessary for the defence of the most exposed parts thereof.

Sec. 2. *And be it further enacted,* That his excellency the governor, may draft or detach the

said militia and chartered companies as he may think expedient; and that any private soldier of the militia, drafted or detached, may furnish an able-bodied man, as a substitute.

Sec. 3. *And be it further enacted*, That each and every noncommissioned officer and private soldier, shall receive two dollars per month, out of the general treasury, in addition to the pay allowed by the United States.

Sec. 4. *And be it further enacted*, That his excellency the governor be, and he is hereby, requested to cause the drafted or detached militia, and chartered companies, to be relieved as often as the nature of the service will permit.

Sec. 5. *And be it further enacted*, That all process, for the recovery of debt or taxes, against the noncommissioned officers and private soldiers, drafted or detached as aforesaid, shall be stayed, during the time they are in service.

Sec. 6. *And be it further enacted*, That his excellency the governor be authorized and empowered to raise a state corps, and to appoint officers therefor, as soon as the president of the United States consents to receive them into service, for the defence of this state; and that the officers appointed as aforesaid, be commissioned by his excellency the governor, in the usual manner.

Sec. 7. *And be it further enacted*, That his excellency the governor, and council of war, be authorized and requested to furnish to the towns most exposed, such ordnance, on travelling carriages, and such equipments and ammunition, as they shall think proper; and to furnish the militia with tumbrels, for transporting their ammunition.

Sec. 8. *And be it further enacted*, That his excellency the governor be authorized to draw on the general treasury for any sum not exceeding

ten thousand dollars, for the purpose of carrying this act into effect.

A true copy,

Witness,

(Signed)

SAMUEL EDDY,

Secretary.

Extract of a letter from Brigadier General T. H. Cushing, to the Secretary of War, dated military district No. 2, headquarters, Providence, July 21, 1814.

Your letter of the 11th instant, with enclosures, reached me at this place, on the evening of the 15th, and on the next morning I had an interview with governor Jones, who is, at this time, deliberating with his council, as to the mode of selecting the state's quota of 500 men, which he assures me shall be raised, either by enlistment or draft, in a very few days.

Extract of a letter from his excellency William Jones, Governor of the state of Rhode Island, to the Secretary of War, dated Providence, August 15, 1814.

Since the arrangement was entered into with you, relative to raising a state corps, rendezvous have been opened in different parts of the state, officers appointed, and the recruiting service progresses in a manner and with a rapidity that promises success.

Should we be disappointed, however, in raising the number proposed by enlistment, the militia will be detached to make up the deficiency, for the defence of the state, according to the invitation of the president of the United States, of the 4th July last.

Extract of a letter from his excellency William Jones, Governor of the state of Rhode Island, to the Secretary of War, dated Providence, September 8, 1814.

SIR—I am ready, as I have by letter, and through the adjutant general, colonel Searle, repeatedly expressed to your department, to call out the militia, and particularly the 500 men ordered by the president, on the 4th day of July last, as our quota of the 93,500 men; but we are destitute of almost every necessary for the comfort and subsistence of those men, and for making them effective, as soldiers. We are without tents, equipage, and provisions, and have a very inadequate supply of cannon, muskets, and ammunition. I have attempted to raise a corps of 500 men, to be accepted as substitutes for our quota of the militia. In this I have not yet succeeded, having been able to enlist only about one hundred and fifty men, notwithstanding a bounty was offered by the state. I have also detached four companies of militia for the defence of Newport, who have been called into actual service, one company at a time, and who were agreed to be mustered under the authority of the United States, as appears by the letter of general Armstrong, dated July 9, 1814. Five companies of militia were also called out by general Stanton, of Washington county, to assist in the defence of Stonington, in Connecticut. In the actual state of affairs, the militia must be drafted or detached to make up the 500 men, and it may very probably be necessary to call out a much larger force; but you must be perfectly sensible of the inefficiency of any force, without further supplies of the munitions of war.

D.

Copy of a letter from his excellency William Pennington, Governor of the state of New Jersey, to the Secretary of War, dated Trenton, October 29, 1814.

SIR—I am informed that governor Tompkins, as governor of the state of New York, has taken command of the 3d military district of the United States: this district comprehends the principal part of New Jersey, and between two and three thousand Jersey militia are now in actual service in this district, at Sandy Hook, in the state of New Jersey. It might certainly appear, on first view, novel, at least, that a governor of a state, as such, should have the command of the militia of a neighboring state, within the actual territory of that state. I am far from entertaining a disposition, especially in the present state of our country, to throw the least obstruction in the way of the operations of the general government in any measure of defence which it may think proper to adopt, but I conceive it my duty to inquire as to the fact, and the views of the war department on the subject.

Copy of a letter from James Monroe, Secretary of War, to his excellency William Pennington, Governor of New Jersey, dated November 22, 1814.

SIR—I have had the honor to receive your excellency's letter of the 29th ultimo, requiring information whether governor Tompkins, as governor of the state of New York, has been appointed commander of the 3d military district, comprehending a part of the state of New Jersey. Your excellency seems to doubt whether the governor of one state can have command of the militia of another state, within the limits of the latter; and it is to ascertain the views of the general government on that point, that the inquiry has been made.

The patriotic and national sentiments which you

have expressed on this subject, have afforded much satisfaction to the president, who desires that all the information which you have sought, should be fully communicated.

Governor Tompkins has been appointed commander of the military district of the United States, No. 3, by virtue of which his command extends to that part of the state of Jersey, and to such of her militia as have been called into the service of the United States within that limit.

The city of New York being menaced by the enemy with a formidable invasion, and the United States not having a regular force sufficient to repel it, a large body of the militia were called into their service for the purpose. It was this circumstance which led to the appointment of governor Tompkins to the command of the military district No. 3, he being, in the opinion of the president, well qualified for the trust.

It is a well established principle, that when any portion of the militia are called into the service of the United States, the officers commanding it ought to retain their command, and enter with it into that service: a colonel with his regiment; a brigadier with his brigade; a major general with his division. On the same principle, when several divisions of the militia of any state are called into the service of the United States, the governor of the state may be authorized to take the command of them, he being the highest officer of the militia in the state. In such a case the governor of a state is viewed in his military character only. He becomes, it is true, the military commander, by virtue of his office as governor; but every *other* feature of that character is lost, in the service of the United States. They relate to his civil functions, in which the state alone is interested. The militia of one state, when called into the service of

the United States, may be marched into another state. We have seen the militia of Pennsylvania and Virginia, serving in Maryland, and of North Carolina in Virginia, with many other examples of a like kind. In all these instances, the militia officers go with their respective corps, and as such, no discrimination can be made, to the exclusion of the governor of a state commanding the militia of his state. Like other militia officers, he may march with the troops of his state into another state, and retain there his appropriate command, either as commander of the district, or acting under another governor, to whom the president has already given the command.

Your excellency will find these principles fully illustrated, and more than fully established by an example which took place soon after the adoption of the present constitution. In the year 1794, when president Washington thought it proper, on the certificate of a judge, that an insurrection existed in the western parts of Pennsylvania, to order the militia of other states there, to aid the militia of that state in suppressing it, he committed the command of the whole force to the governor of a neighboring state, who commanded the governor of Pennsylvania. The relative rank and command of the governor employed in the service, was settled by the president himself.

In general, it was not desirable to impose on the governors of states the duty of commanding the militia of their respective states, when called into the service of the United States, where they supersede the officer of the latter, commanding the military district in which such state is, because, as governors, they have other duties to perform, which might interfere, if they did not conflict with those incident to such command. A governor, for example, under the influence of local feeling,

might think the danger more imminent than it really was, and call into the service of the United States a greater force than would be necessary. He might even set on foot expeditions, which the general government could not approve. It would be improper that the charges incident thereto should be defrayed by the United States. The constitution contemplates the exercise of the national authority, in contra-distinction to that of the state, whenever the militia of a state are called into the service of the United States. The call must be made by the president, or by his authority, to be obligatory on the nation. If made by the governor of a state, it is the act of the state, obligatory on it only. These objections, however, to the union of both trusts in the same person, did not apply to the employment of the governor of New York. All the force necessary for the defence of that state, had already been called for, by order of this government, and put into the service of the United States, and although the governor is authorized to dismiss a part of the militia, in certain cases, he is instructed not to call out any, without a special sanction from this department.

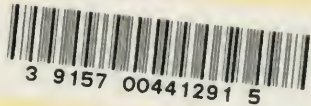
Your excellency will observe, that the objection to the command of the militia of a state by its governor, when called into the service of the United States, does not apply except to cases in which the command of the military district of the United States is superseded. In every other case, even in those having that effect, under similar circumstances with that under consideration, such active, patriotic service by persons so highly intrusted by their country, will be seen by the president with great interest and satisfaction. Its example could not fail to produce the happiest effect.

I have the honor to be, &c.





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