Mr. Ewen said he would state the reasons that would induce him to vote in favor of the motion for striking out the first section, and also his reasons for voteing against the bill. That the principles and details of this bill were so abhorrent to his mind, so little according with the political principles which had always actuated his conduct, that he could not consent to vote for it, either as his constituents, or to his own feelings to give a silent vote. He wished also to be understood, that in any observations he should make, he meant not to impeach the principles or motives of those gentlemen who advocated the bill, nor in any thing he might say in regard to courts of inquiry, or courts martial, did he mean to reflect on any officer of our army.

He said he should consider the nature of the court to whom we were about to give the power by law, of dragging our citizens from their homes and their tamers, how far the details of this bill accorded with the principles of justice or the spirit of the constitution, and what necessity did there exist for the increasing of the jurisdiction of military courts in this alarming extent. The reason which has been urged by my colleague, Mr. Montgomery, (Mr. Ewen) which he believes this bill to be fundied, is, that at present a soldier or officer of the United States may be tried and deprived of his life when deprived of the power of producing witnesses that may be material to his defence. This might be an argument of some weight, if an officer or soldier was amenable only to a military court; but the fact is that military courts are clearly interdicted by the rules of war for the punishment of offences committed by quarters, garrisons or on march, or elsewhere, not merely constituted, in the view of the army, and which are made offences by military law. These offences, then, the being committed before military men, courts martial or courts of inquiry have already the power of summoning those witnesses that may be material either to criminate or acquit the accused. But when, sir, a soldier or officer of the soldier commits an offence against the persons or property of a citizen, and escaps punishment by the known laws of the land. If the gentleman will turn to the 52d article of war, he will find that they are to be delivered over to a civil magistrate that he may bring them to trial. Mr. L. then read the following clause:

"When any commissioned officer or soldier shall be accused of a capital offence, or of having used violence or committed any offence against the persons or property of any citizen of any of the United States, such as is punishable by the known laws of the land, the commanding officer of the officers, &c. are required, upon application, &c. to use their utmost endeavors to deliver over the person or persons so accused, &c. in order to bring them to trial, &c."

In what situation then I will ask, is it probable that an officer or soldier should commit an offence, on the land for which he would be tried, and in his power to summon evidence? If an offence is committed for which he is amenable to a court martial, the results from his situation, and the effects of military discipline that it will take place in the presence of those, who may be summoned by a military court. I mean, sir, his brother officers or soldiers. If, on the other hand an offence is committed, not known in the articles of war, and for which he is amenable to the civil authorities of our country, a military court has nothing to do with it, and the civil court has already the power of summoning any witness either military or civil.

I ask, then, sir, being a correct position, I shall contend that there is not the most distant probability that any officer should be summoned, who will be impossible to procure or compel the attendance of evidence, if any evidence should exist, and I must be admitted that if none should exist, no law we can pass can compel it up either for the purpose of condemnation or acquittal, and what must give force to this opinion, that no necessity does exist for this law, is, that no such case has occurred in which testimony could not be had before a proper tribunal. I would, sir, then ask if no such case has existed, if your laws heretofore have been effective, and the opinion, so improbable evil, for the purpose of applying the remedy of this law, the effects of which, in my opinion, would be mischievous and oppressive. Sir, I trust the House will not do it. The gentleman from South Carolina has to be sure expressed great sympathy for those persons who are subject to military rule. Sir, I feel as much as that gentleman for the sufferings of those who are subject to military and arbitrary power, but we find from the experience of every country that policy has dictated the subordination imposed by the articles of war, and from habit and custom it is now thought necessary and proper. But however pleasing and soothing the gentleman's representation of the situation of the soldier may be to the feelings of humanity, it certainly as an argument can have no bearing on the present question. If you mean to confer privilege on the military, which heretofore have been granted only to citizens, you destroy that subordination and distinction which from experience and necessity has existed between their two orders, and which distinction has been recognized in the constitution, and therefore will it is found, necessary from experience to make this regulation the House will not surely agree to it. The gentleman from N. C. tells us that trials before military courts are not public. I profess myself to be very little acquainted with the modes of proceeding in these courts, and will therefore take the gentleman on his own statement, and yet, this House will not give will sanction a law by which their fellow citizens shall be dragged into an inquisition, and in defiance of those principles which have heretofore actuated the republican party in relation of the people's rights, that you will drag them before a court of enquiry, or court martial, in the case may be, to have to be shut up and questioned, on the most delicate subjects to themselves, and perhaps involve in the causes, at the caprice and discretion of the commanding officer. Can this be reconciled to the feelings of our fellow citizens or to the people? If it can, gentlemen must differ very widely from me, indeed. Were it so, I do, they never could support it.

The gentleman from S. C. has also observed, that whenever any bill was said in the House with respect to the liberty of the country, standing armies were mentioned. I ask the House were favored by an eloquent strain of declamation. Is this strange? Sir, the very articles of war which we are about to amend, or rather to make worse, is a strong argument why men of feeling should not be tried, or impeded on in times of peace. Can any man suppose that a soldier who can be tried up on the charge of violation of a petty court martial, can feel that ardor for liberty with one who is tried by the ordinary tribunals of all its blessings? Can they be expected to step forward in defence of rights they enjoy? Can they feel much attachment to the principles of a constitution, when they are denied the privilege of being whether extended to others, and which rights would alone attach your citizens to your government? No. Sir, no such zeal can be expected from them. You might as well expect from the slave of an Eastern despot, the same feelings of your constitution which you find in your own citizens. The gentleman from Tennessee has observed that courts martial or courts of enquiry cannot prevent the truth of witnesses, but I contend there is a right to determine as they please on evidence; and if a whom I would not attend a witness appointed? Generally it may be said by the officers of high rank, but sometimes by those of inferior rank, sometimes for one purpose, sometimes for another. But no one will contend, sir, who knows any thing of human nature, that in as much as men holding commissions, and filling high offices in the government may have the appointment of courts martial, that the time may not arrive when those courts may be created for the most of a base place; that they may be created for the purpose of advancing the views and interest of those who have the power of deciding properly on the evidence that comes before them? Certainly not, sir; and I would ask to whom is these courts appointed? Responsible only to the person who appoints them. Sir, permit me to say that I consider these military courts as little calculated from the variety nature of their creation to decide the fate of an American citizen in the inquisition itself. But, sir, another consideration has great weight with me. Before I would compel a citizen to appear as an evidence in any court, I must have some pledge that he will be treated with decency by persons composing the court, were competent to decide on the rules of evidence, and if I find a person so called on to answer questions tending to criminate himself.

I will candidly and willingly admit that the persons composing a court martial or court of enquiry may possess all the honor and military character of the soldier, but it does not follow that they are acquainted with our common and statute laws. A man may possess all the qualifications that may entitle him to mount the cockade in his hat; he may be bold, adroit and adventurous, but not a profound lawyer. In fact, sir, without saying any thing to the disparagement of our officers, and which I assure you I have no disposition to do, I may say that from the nature of their education they are not qualified to compose a court, such as American citizens are accustomed to. I will ask what may be the result of this law if passed; a soldier or officer is on his trial at Philadelphia, and for the purpose of delay he subpoenas a witness from a distant part of the Union, and by virtue of the provisions of this law, leave your home, and give your attendance, when in fact you have nothing material to the cause. This, sir, is giving a privilege unknown. I believe, in our civil courts, that when a witness has to attend, you must file an affidavit, or your cause goes on; but this regulation I know, may vary in the different states.

Let us now examine the provisions of the bill, and see how far it does it comports with the dignity which ought to be preserved in the judiciary of our country, and how far it admits of private and delicate communications which frequently take place amongst our citizens, and with which the public interest and welfare have no connection.

Let us refer to the bill. "That in every case where the attendance of any person, not in the military or naval service of the United States, shall be necessary as a witness before a military or naval court martial, summons to be issued by the president of the United States, and the clerk of any such court shall be, and he is hereby authorized and required, upon the application in writing by the judge advocate, or party officiating as such, or the party accused, to issue the said summons, requiring such witness to appear and give evidence before such court, whenever such application is upon good & sufficient cause shewn"—What is meant by the words good and sufficient cause? I ask the members of the bill, if they mean by good and sufficient cause shewn, that a party court martial or enquiry is necessary; and that a judge of a civil court shall, in compliance with their requisitions, be compelled to issue a summons, requiring such witness to appear and give evidence before such court martial or court of enquiry, upon good & sufficient cause shewn?—What is meant by the words good and sufficient cause? Can the House be ignorant of the fact, if they mean by good and sufficient cause shewn, that a party court martial or enquiry is necessary; and that a judge of a civil court shall, in compliance with their requisitions be compelled to issue a summons, requiring such witness to appear and give evidence before such court martial or court of enquiry, upon good & sufficient cause shewn?—What is meant by the words good and sufficient cause shewn