the courts, filing them to the defendant's proceedings. Is it more difficult than to suppose that a militia man would be suffered to go out of the ranks in time of war, and cross-examine witnesses when depositions are to be taken? Is not the same privilege you allow to the militia? The thing is phenomenal, and never exist but in theory. Honor be called about, but never can be practiced. If you will take the pains to open your statutes, and read the grounds on which it is proposed to exempt militia men, you will see a clause in which it may effectually be pleaded, that it is intended for the purpose for which it is intended.

A little reference by bills will given to the members of our two chief courts, may relieve us in the parallel which he draws in the civil cases between the courts, as pleadings, and the course of action is a visible shape. Not one militiaman in ten, has spent a day in a cause sooner more than three weeks, in some states, and in other more than a reasonable number, it subjects him to a cost for harvesting his energy. There is no such restriction in this bill; a military officer goes to the court and summons the militiaman to appear directly within the hours of sitting, and the courts have no restriction to number, this gives the military an advantage instead of bringing them to the level.

Just something more to this equality, we cannot, in equity, for a moment, cause the appearance of the military, at a distance, compelled by the civil court, a deposition is to be taken, the judge is an adjunct to the trouble of a civilian, but he cannot be issued, while this bill, as it descends to us, and all the constituent parts, commands all courts and judges of whatever description to be subject to the requisitions of this military man. Where is the man in civilize who can honestly say he is sure, if he acts and fact to be called upon by a military man — as he is called upon, by a civil man, on subpoenas? No. They are all to be called upon to take depositions without intention to stay one to an hour from a regimental. All the judges of civil, inferior and superior courts, all are to be put in requisition to save this person from a reprimand. There is no such privilege, who enjoys these privileges? Does the militia man enjoy the dignity, or, rather, the honor in social service as a citizen; they attach no such officer only.

There is another provision in the bill which is extremely objectionable, both as to the manner of conducting the investigation; I allude to the power of the regimental proceedings, appears, "The judge whose in such summons may be under directed and required to use a subpoena, evidence before such court matter of court of enquiry, may be under directed and required to use a subpoena, papers, or copies" Which part of the "subpoena" it is meant to apply, part of a record, a copy is only kind of private papers, I am cannot be understood. If the record which is court, shall a perfect copy, be authenticated, it may be compelled to go and get it? The records of the court are authenticated copy; I cannot take the original, for they are continuals in perpetuity, of memorial, and they will not permit them to be removed, these laws are advantage given to the military. A copy will do for the citizen, while the military man by this law is entitled to take the original. We will result conclusively at the end of a month, to produce his private papers. What public papers are in The hands of the citizen? It is a crime in possession of an individual, it is his papers, and in violation of the constitution and of the first principle of right to force him to surrender it.

But the proposition is not to stop it is guarded, glossed over, by a provision extremely going to show that we have a high regard for the public papers and rights. I feel as well as all gentlemen present, that we have a great ground; but I contend that gentlemen are mistaken in supposing that these clauses operate as a restraint, while in fact they are only to obtain the passport, "a which shall be issued, men, the record shall be executed in such affidavit not exceeding, the specified." *In hasc verba?* "And described in such summons." Are not a copy of a loss to know how it is to be described — and in the opinion of the judge shall contain evidence which shall be material to the subject matter which may be on trial before such courts, and which said witness, might compel the attendance of, and the many rules of proceeding in a court of civil jurisdiction." This clause I contend are not able to compel the judge to whom application is made in the first place is to examine whether the paper be pertinent to the issue. To do this, the subject must be before him. But it is not; it is before a military tribunal. He must be judge of the matter then to enable that court to have the means of judging. I have never have been a party to a transcript of papers on the subject, but he might have the subject before him; but there is no such thing; his is to determine whether a paper is pertinent to the subject matter without having the subject before him, and also to determine whether the paper called for could be legally required of a civil tribunal by which public papers cannot be called for? I have never known a witness in a civil action constrained to produce a paper except it had been placed in his safe keeping and he would not surrender it till required by the civil authority. I know of no law authorizing a party in a suit to call upon witness for private papers, and he is not presumed to have public papers in his possession. This provision is either inefficient or it proposes a violation of private rights. It does not require even that upon inspection of the paper the judge may determine whether it be pertinent to the issue. I cannot suppose it to be in contemplation that private papers shall be thus produced, and yet this I am assured will be the effect of the provision. How is a military court to determine whether a paper is to be produced in evidence? Your go upon the supposition that officers competent to judge of these matters are versed with civil process. The paper when produced must be read, or this military for a moment, is not versed in military, but upon the laws which regulate the actions of mankind, and the rights of the people of the country. To this military men cannot be competent; they are not presumed to be so. This provision may work mischief; private papers are secured from exposure by the constitution; they are not exposed by this bill. This section I fear might be made use of to violate the sacredness of private papers. Our rights are independence, to expose to public gazettes totally improper for it, and consequently exempt. It might be used to render our government "perhaps less stable and permanent than it is at present constituted."

The next provision is objectionable and radically defective: "And for such fault in the judge, the officer serving any summons as aforesaid, the marshal or officer acting as such, shall be liable to an action therefor, and to be proceeded against in like manner, as if he had made such default and neglect on receiving such summons or citation in causes depending in the district court of the territory, where he may be marshal, or acting as such." "

The fine and imprisonment on this officer is to be inflicted? The civil courts punish their officers for offences of which they cannot be the own personal knowledge; but if the officer has neglected his duty out of the judge's district, and, in a certain the fact, and the officer is punishable by suit at the instance of the injured? The marshal then cannot be punished in the way contemplated by the bill. The summons is a witness in pursuance of this act, shall fail to appear and give evidence before such court marshal or officer, shall be punished in the tenor of the summons, or shall, in any respect, fail to perform the summons to him issued and served, in pursuance of this act, or having appeared, in obedience to any summons, shall depart without leave of the court before the examination shall have been definitely taken and completed, or without leave obtained, every such person shall be liable to the same penalties and to be proceeded against in the manner prescribed by the court of the U. S. holden for the district or territory where he resides or may be found at the time of being summoned, as is provided by law in cases of default by witness, summoned in civil cases." Who, from what law may the court sit? How long is he to be detained? The judge is, for months, the judge of the witness is once before them, he is at their discretion. Our civil courts have no such power, the attendance of the witness is defined, and his rights are not violated. This bill is carrying the military principle, which is strict in all rights except at their caprice; he is not to go away unless regularly dismissed, and, how long? Here no trial is left to their discretion. If a witness is guilty of contempt, he may be fined and imprisoned.

"When they have a name before them they will keep him till they get his testimony; whether they imprison him or not till he has given his testimony, or if guilty of contempt, whether they will imprison him till he stone for it, will depend upon taste. It is putting the civil in the power of the military in a way at which my feelings revolt.

Here is a hardship then. An a gentleman from Massachusetts a gentleman, that the witness should be tendered and the witness, is a very, a very law that you cannot compel a witness to attend except his pay be tendered. This is well, and, it has been attempted to punish a witness for contempt, it has been always asked was his pay tendered to him? If it has, it has not been published. Here then is a decided preference to the military over the civil authority; a new proposition is made that his expences shall be tendered.

The most exceptionable part of all is that mentioned by the gentleman from Virginia (Mr. Randolph.) "Provides a violation of private rights. It does not require even that upon inspection of the paper the judge may determine whether it be pertinent to the issue. I cannot suppose it to be in contemplation that private papers shall be thus produced, and yet this I am assured will be the effect of the provision. How is a military court to determine whether a paper is to be produced in evidence? You go upon the supposition that officers competent to judge of these matters are versed with civil process. The paper when produced must be read, or this military for a moment, is not versed in military, but upon the laws which regulate the actions of mankind, and the rights of the people of the country. To this military men cannot be competent; they are not presumed to be so. This provision may work mischief; private papers are secured from exposure by the constitution; they are not exposed by this bill. This section I fear might be made use of to violate the sacredness of private papers. Our rights are independence, to expose to public gazettes totally improper for it, and consequently exempt. It might be used to render our government "perhaps less stable and permanent than it is at present constituted."

The next provision is objectionable and radically defective: "And for such fault in the judge, the officer serving any summons as aforesaid, the marshal or officer acting as such, shall be liable to an action therefor, and to be proceeded against in like manner, as if he had made such default and neglect on receiving such summons or citation in causes depending in the district court of the territory, where he may be marshal, or acting as such."

The fine and imprisonment on this officer is to be inflicted? The civil courts punish their officers for offences of which they cannot be the own personal knowledge; but if the officer has neglected his duty out of the judge's district, and, in a certain the fact, and the officer is punishable by suit at the instance of the injured? The marshal then cannot be punished in the way contemplated by the bill. The summons is a witness in pursuance of this act, but to the military court. Whether it be executed or not the civil court can not punish. The officer is not bound to make return; if he fail to execute a summons,