

except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger."

Now it is well known that notwithstanding this plain provision of the Constitution, which is the supreme law of the land, governing and directing the President of the United States, and every military officer in the employment of the Government, citizens of the State of Maryland not "in the land and naval forces," not "in the militia in actual service in time of war or public danger," have not had the hearing that the Constitution of the United States says they shall have, which says they "shall be held to answer only on the presentment or indictment of a grand jury." Now with all these facts staring us in the face, the fact that the supreme law of the land has been ignored so far as Maryland is concerned, I want to go one step further, and embody in this 18th article, which goes to the very groundwork of the rights of man, the declaration that no person shall answer any charge or alleged crime in any court-martial or military tribunal, unless, in the language of the Constitution of the United States, "in cases arising in the land or naval service, or in the militia when in actual service in time of war or public danger." I am not content with the mere embodiment of what ought to be, as in this 31st article. I want a plain direction and declaration to go forth from this Convention, which will govern the executive officers of this State, and every man who may take an oath to support this Constitution when it shall have been adopted. Now there is no treason in this declaration. The Constitution of the United States contains it in words as strong and positive as any I have used, as strong and positive as any one can declare any fact, or pronounce any commandment.

I want the Constitution of the State of Maryland to take up that declaration, and make it just as strong and positive here, so that if one department of the government undertakes to violate the Constitution of the United States by trying men in violation of this provision, the executive shall be sworn—to do what? to oppose the Federal authorities? not at all—shall be sworn to do what the Constitution of the United States, which he has sworn to support, requires him to do; and I strengthen that oath by the insertion into the Constitution of the State of Maryland of a provision which he will be required to swear to support, and then if he or any other officer of the State, sworn to support the Constitution, permits it to go on, he will be a perjured officer of the State—will not have performed his duty.

When, last fall, complaints were made in reference to the election, and the oaths which had been administered, and a great to-do was made in reference to the pending election, the executive suddenly assumed a wonderful de-

gree of State-right position, and a determination to vindicate the majesty of the law of the State of Maryland. But still he has repeatedly known of similar violations of the law, and they have met with his sanction and approval. And it was said in the military headquarters in Baltimore that they had the sanction of the executive, and had not violated any statute law of the State. I want it to go into the Constitution of the State that no citizen of the State, no person, shall be placed in that position, or if he shall be placed there, it shall be the duty of the executive to protect him, or to make some move as an officer or representative of the State for that purpose, and that if he does not he will not have fulfilled his oath. That is the reason why I desire to put it in this form in this Constitution. It is nothing but what the Constitution of the United States declares to be law, a law which every State and Federal officer is bound to follow. I want to follow it up here, that it may be obeyed; that the executive of the State may have a still stronger inducement to discharge his duty. I care not who he may be; I have no personal reflection to cast upon any one. But I want it so arranged here that in all time to come, unless he discharges his duty, he will have violated the oath which this Constitution shall have imposed upon him.

Mr. CUSHING. Will the gentleman allow me to ask him one question? He says that if this article should be amended as he proposes, and any one should be so treated by the military authorities, and the Governor of the State allows it to be done, he will be a perjured man.

Mr. CLARKE. Unless he takes some steps—all the steps which the State authority can bring to bear—he will be.

Mr. CUSHING. What steps could the Governor of the State bring to bear?

Mr. CLARKE. I can tell the gentleman a great many things the executive can do. Here is an instance: My friend here (Mr. Miller)—he will pardon me for referring to it—with others, was arrested for not voting. These gentlemen appealed to the Governor of the State. The reply was, "You cannot be arrested for that; it must be for some other reason. It never was heard of that men were arrested because they would not vote. I issued my proclamation, which told you not to swear; that told the judges not to administer the oath, and you only conformed to what I myself had required." Yet, when you reached the military authorities, they put it down in black and white that that was the ground for the arrests. There was no charge of disloyalty. The Governor said, "You must have been charged with being a traitor or disloyal." Yet, those gentlemen were not charged at all with being disloyal. The arrest was put upon the plain and simple fact in reference to the election vote, and I would ask gentlemen if they ever heard of anything