

having been done by the executive authorities in the way even of a plain statement and representation of the facts, which occurred right here, within his sight and hearing. In reference to what the executive is to do, every case will suggest its own remedy. I will not now, but when the proper time comes I shall take occasion to state what I believe to be the proper spheres of the State and of the Federal Government. And I will go just as far as to preserve the authority of the Federal Government, within the limits of the Constitution of the United States, as any man upon this floor.

Mr. STIRLING. I do not feel disposed to enter into this very much vexed question which the gentleman from Prince George's (Mr. Clarke,) has raised, because, so far as the principle of the thing is concerned, I am perfectly willing to leave it where the bill of rights of Maryland now leaves it, and where the Constitution of the United States leaves it. If there is any necessity for putting an obligation upon the Governor of the State to protect the rights of the people of the State, he is now under as much obligation, under the Constitution of this State, or the Constitution of the United States, as he would be placed under by any provision which we could incorporate in it.

It has recently happened, and will happen in every time of public commotion, and especially of civil war—it has happened in the portion of this country under the Government of the United States, and under the Government of the so-called Confederate States, that a great many people have been tried by martial law. Now, I am not going to enter into the question upon which that has been defended, that these people were outside of the provisions of the Constitution. But it has never been asserted that either the President of the United States, or the man who calls himself the President of the Confederate States ever said that they had any right to override the law; they have always endeavored to explain their acts as being consistent with the law. Now, whether they have done so or not I leave to those who are curious in that matter. I shall leave the question as to how far the provisions of the Constitution and bill of rights have been shaken by the convulsions of this bloody struggle to the reflections of those who commenced it. If they choose to shake the Constitution by the qualms of a political earthquake, they must go back to themselves to solve the question as to how far the Constitution has been shaken.

As to the general principle, I suppose everybody is agreed upon that; that the people ought to be tried by the established judiciary, and not by martial law. The question how far people have put themselves beyond the reach of that judiciary, how far they have become public enemies, is not going to be

settled by the introduction of additional language in this Constitution. The declaration here is sufficient, as it stands, and the only effect of putting in what the gentleman proposes is to produce difficulty, for it can result in no possible good.

Gentlemen upon the other side of the House have heretofore manifested a great desire to leave this bill of rights in the condition in which the fathers left it. Some of them wanted to go back to Magna Charta. Now let them apply that same principle to this article, and let the bill of rights on this subject of military law stand precisely where the old bill of rights left it. For if it is not necessary and proper to introduce an amendment in regard to one provision, it cannot certainly be proper in regard to another on that principle.

Mr. CLARKE. In reply to the gentleman from Baltimore city, (Mr. Stirling,) I will state that I stand here, a citizen of Maryland, protected by the Constitution of the United States, and the Constitution and laws of the State of Maryland; and, as I shall show when I come to discuss the relations of this question, under the ægis of the decision of the Supreme Court, as far as that decision goes. Therefore I am not going to be drawn into any discussion as to who created this great civil commotion, and how far they were justifiable, and how far President Davis, the so-called President of the Confederate States, may do this, that or the other, for I have nothing to do with that. The Supreme Court of the United States have decided that there is war and that those people are alien enemies; that the loyal man there is just as much an alien enemy as the man who is taken with a gun or a sword in his hand. Therefore I am not going to enter into any discussion about alien enemies, or what they did or do, or anything in reference to any matter of justification in reference to our course, whether they were legal acts this way, that way, or the other. I am going to discuss only the rights of the citizens of the State of Maryland. I had nothing to do with this impending struggle. My skirts are just as clear of it as those of the gentleman from Baltimore city, (Mr. Stirling.)

Mr. STIRLING. I had no intention to refer to the gentleman from Prince George's (Mr. Clarke.) I made the reference in a general way, not to particular individuals.

Mr. CLARKE. I am going to disconnect this question entirely from what may perhaps be considered outside party bias. I will say this: that some of my friends upon this floor have great veneration and love for anything ancient, and will not change it for any consideration if they can possibly avoid it. I am not quite so tied down to the past as some of them. I voted upon the proposition to let this first article stand—that the people have at all times the right of revolution, the un-