

States to which the gentleman from Baltimore city (Mr. Thomas) referred, the General Government may send its troops into a State for the purpose of guarantying a republican form of government. They will then be subject to the laws of Congress. During the very same period there may be State troops co-operating with the troops of the General Government, in order to maintain the republican form of government. They may not be placed at all under the authority of the Federal Government. You may have within the State both the executive of the State attempting by the State forces to maintain its republican form of government, and the President of the United States with the troops of the United States attempting to maintain the republican form of government. I hold that the troops of the State, so far as they are brought under the authority of the United States or of the State, are subject to the laws respectively of the Federal Government and of the State. Gentlemen will not pretend for a moment to say that when troops come into a State under the authority of the Federal Government for the purpose of maintaining a republican form of Government, repelling invasion or suppressing insurrection, that immediately and forthwith the State laws operate and they come under State laws. We have the very case now before us. I believe the present call is made to a certain extent on account of threatened invasion. The President of the United States is calling for these troops. There is a period before they are put under the authority of the United States; and this provision of the bill of rights is to meet the case of providing for those troops during that period. So soon as that period passes, and they come under the authority of the Federal Government, this article ceases to apply to them; and it makes no difference whether they were called out by the President or by the executive of the State.

Mr. THOMAS. I will state as an additional reason for the adoption of the article reported by the committee that it is no new thing. By reference to the "American Constitution" it will be seen that the section here reported in this exact language is contained in the Constitutions of Maine, New Hampshire, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Kentucky, Tennessee, Ohio, Indiana, Mississippi, Illinois, Alabama, Missouri, Florida, Arkansas, Iowa, California, Oregon and Kansas; leaving out the term "Legislature," and putting in the exact phraseology used in this article, "except in the manner prescribed by law."

Mr. THRUSTON. I will suggest an illustration to show the effect of this language and how appropriate it is. Suppose the case of a soldier in the United States who is here by virtue of the law of the United States. He is here by virtue of the law of the State of

Maryland, because the law of the United States is the law of the State of Maryland, with regard to that particular case. Therefore I say the words "by law" cover all cases, and I do not see how the section can possibly be changed without injury.

Mr. JONES, of Somerset. I concur in the views of the gentleman from Allegany, (Mr. Thruston.) The language as it stands covers all cases, and in my judgment is eminently proper. I should dislike any amendment to it, for I prefer the section as it stands.

The amendment was rejected.

Article 31 was read as follows:

Art. 31. That no person, except regular soldiers, mariners and marines, in the service of this State, or militia when in actual service, ought in any case be subject to or punishable by martial law.

Mr. PETER. I move to amend by striking out the word "ought" and inserting in place thereof the word "shall." Martial law is made for the soldier. Civil law is for the community. The soldier in becoming subject to martial law, sacrifices for the benefit of the citizen many of the rights which pertain to the citizen. I hold it to be a principle that the citizen does not therefore sacrifice any of those rights for the benefit of the soldier. I hold it to be well-substantiated law, that under all circumstances, excepting the case of direct interference upon the part of a citizen with military affairs, he is entitled to a fair and impartial trial according to the laws of the land in which he lives. I do not think in asserting our rights, that we should leave this merely expressed by the word "ought;" but it should be expressed in such terms as admit of no qualification. We should express it as one of our rights, that we are entitled to be tried by the laws under which we live; that we have not sacrificed our rights or given them up to the military power of the government to rule us. We are not required to be deprived by laws fixed for the purpose of governing those who have given up their rights for the benefit of the community generally, of our rights to be governed by civil law. I hope therefore that the amendment will prevail.

The amendment was rejected.

Mr. CLARKE submitted the following amendment:

Strike out all after the word "that" in the first line, and insert the words "no person shall be held to answer for any charge or crime before a Court Martial or Military tribunal, except in cases arising in the land and naval forces of the United States, or in the militia of the State when in actual service in time of war or public danger."

Mr. CLARKE. This is substantially the same amendment I offered when another article of this bill of rights was under consideration; and the gentleman from Baltimore city, not now in his seat, (Mr. Stirling) then said