

We have no regular soldiers, mariners, or marines in the service of the State.

The CHAIRMAN, (Mr. Scott.) The question is upon the motion of Mr. Stockbridge, to insert the word "to." There can be no discussion except upon the merits of that amendment.

Mr. CLARKE. Is not the gentleman at liberty to discuss the article as it would read when amended? It is for the House to say whether the article when amended shall read so and so; and therefore that leaves the whole article before the House.

The CHAIRMAN. Remarks upon the grammatical construction of the sentence would be proper.

The question being taken upon the amendment it was agreed to.

Mr. DAVIS, of Charles, moved to amend the 31st Article by striking out the words "in the service of this State."

The question being taken, the amendment was not agreed to.

No further amendments being offered to Article 31,

Article 32 was then read as follows:

"That the independency and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore the judges shall not be removed, except for misbehavior, in a court of law, or by the Governor, upon the address of the General Assembly; provided that two-thirds of all the members of each house concur in such address. No judges shall hold any other office, civil or military, or political trust or employment of any kind whatsoever, under the Constitution or laws of this State, or of the United States, or any of them, or receive fees or perquisites of any kind for the discharge of his official duties."

Mr. JONES, of Somerset. I would suggest an amendment to this article, to come in after the words "upon the address of the General Assembly." What I desire would, perhaps, be implied; here it is left to the unlimited discretion of the Legislature, as to any mode of proceeding any particular Legislature might see proper to adopt in taking cognizance of any charge that might be submitted to them in reference to any judge. I do not think there ought to be that unlimited discretion in any tribunal. I think that wherever judicial functions are to be discharged, affecting the rights of any individual, the mode in which that jurisdiction is to be exercised ought to be described by law and known, so that no surprise or injustice could result in any case. The amendment I propose to offer has, I believe, been practically adopted in the action of the Legislature. That is to say, although they have an unlimited discretion, by a vote of two-thirds of each house, to recommend to the Governor the removal of a judge, yet when-

ever a case of that sort has come before them, they have felt it due to give the party charged notice of the charge and opportunity for defence. I merely propose that this right, which certainly ought to be extended to every one charged, of notice and trial shall not rest in the discretion of the Legislature, but that the Legislature shall be required to pass a law prescribing the mode in which notice shall be served upon the party charged, and that provision shall be made for the trial, so that no injustice may be done, and no surprise worked in the trial of a judge. I propose to add, after the words "General Assembly" the words "after such notice and trial as shall be prescribed by law," so that that portion of the article will then read:

"Wherefore the judges shall not be removed, except for misbehavior, on conviction in a court of law, or by the Governor, upon the address of the General Assembly, after such notice and trial as shall be prescribed by law, provided that two-thirds of all the members of each house concur in such address."

Mr. STOCKBRIDGE. I would suggest to the gentleman from Somerset (Mr. Jones) whether it would not be well to modify his amendment so as to make it read, "prescribed by general law," in order that there shall not be specific legislation for each individual case. I would like to preclude the idea or possibility of special legislation.

Mr. JONES, of Somerset. I accept the suggestion, and will modify my amendment accordingly.

Mr. EARLE. I would say that that will probably be inserted in the article on the judiciary, and therefore it seems to me that there is no necessity for repeating it here. There is something of the kind in the present Constitution, and there is no doubt it will be inserted in the article on the judiciary here. I see no reason for inserting it in two places.

Mr. CLARKE. I understand that the report of the judiciary committee will provide for this. But this is a declaration of a fundamental principle, and therefore I think it will be proper here.

Mr. JONES, of Somerset. That is the idea.

Mr. CLARKE. There are certain other things which may occur in two or more places in the Constitution.

Mr. JONES, of Somerset. My object was to have inserted in the Declaration of Rights a fundamental principle of natural justice; that in no case ought any judicial tribunal to proceed to action without notice and trial.

Mr. MILLER. There seems to be a practical difficulty about that. To what trial does the gentleman refer?

Mr. JONES, of Somerset. A trial before the General Assembly. I apprehend that the General Assembly would not, upon a mere *ex parte* statement, demand the removal of a judge. Yet this now leaves it in their dis-