

that the militia only be called out when "great destruction of life or property", or words to that effect, was imminent. We felt, however, that this was not correct. It did not go as far as the Committee wanted. For that purpose we added the wording "at such times when great destruction of life or property may be imperiled or may occur". The words "may occur" were deliberately chosen by the Committee also for the reason that we felt this would not only allow the governor to call out the militia after a disaster, national or otherwise, but also in the event that such a disaster might occur. We deliberately chose the words "may occur" to cover both before and after any catastrophe that seemed in the wind.

THE CHAIRMAN: I do not know that the answer you have given, Delegate Boyer, answers Delegate Chabot's question. As I understand it, his question was whether the words "at such times" are intended to modify only the preceding words "provide assistance" or whether they also limit the right to "order the Militia to active duty to repel invasions, suppress insurrections and enforce the executions of the laws."

DELEGATE BOYER: I think "at such times" should be an all-inclusive phrase to cover all contingencies.

THE CHAIRMAN: Is there any further question? Delegate Bamberger?

DELEGATE BAMBERGER: Mr. Chairman, I should like to ask the gentleman two questions. I should like to ask the gentleman whether the words "active duty" on line 11 and the words "actual service" on line 19 mean different things so that a member of the militia might be subjected to trial in a military court when not on active duty but engaged in some other activity presumably of a lesser type, but which is actual service.

DELEGATE BOYER: Delegate Bamberger, on line 11 the words "The Governor may order the Militia to active duty" means that such times as he feels it necessary, he may call them out or order them up for active duty.

The wording "active service" on line 19, and on this matter we went into a lengthy discussion, might cover the situation where someone not on active duty for a catastrophe, might be in flagrant violation with misconduct of some sort while on a National Guard night. Then he would be in "actual service" although not on "active duty."

THE CHAIRMAN: Delegate Bamberger?

DELEGATE BAMBERGER: I should like to ask the gentleman another question. On lines 17 and 18 the Committee recommendation adds to the Commission's Draft the words "in the person of the governor". Is it the intent to diminish the power of the General Assembly over the militia by those words? If it is not the intent, was there any expression in the Committee about a concern that vesting this civil control over the militia in the governor and presumably exclusively in the governor does, in fact, diminish the power of the General Assembly over the militia?

DELEGATE BOYER: Certainly it was not the intent to diminish the power of the General Assembly. We felt that somebody had to be the captain of the team, and that the governor should be the commander-in-chief. I believe this was the unanimous opinion of the Committee. As I stated, we considered what would happen in the event the governor not be available, and we decided to leave that up to the Committee on the Executive Branch without getting into the detail of saying "should the governor not be available." Our main purpose was to perpetuate and keep control of the militia in the hands of civil authorities in the person of the governor or his representative as might be spelled out elsewhere in the Constitution.

THE CHAIRMAN: Delegate Bamberger?

DELEGATE BAMBERGER: I should like to ask the gentleman whether there was a specific intention in adding to the Commission draft the words "in the person of the governor" at lines 17 and 18, and what was that intention? I take it from your prior answer that it adds nothing to lines 9 and 10 which say that the governor shall be the commander-in-chief of the militia.

DELEGATE BOYER: No, probably it was our intention to emphasize the fact that we wanted the militia continually and perpetually in civil control in the person of the governor. That was our intent in adding the words "in the person of the Governor", so it would be irrevocably clear that this was our intent.

THE CHAIRMAN: Are there any further questions? Delegate White.

DELEGATE WHITE: I am concerned that the two words "may occur" on line 15 of the draft proposal would authorize the governor to enforce the execution of the law. I am wondering if the Committee felt