

we can argue and agree that they will establish the militia in the legislature. There are certain rights provided, such as the right not to be tried by court martial unless you are in actual service of the militia at the time the offense occurred, among others.

I think these qualifications should be in the Constitution and not only in the Declaration of Rights, if the General Assembly establishes a militia. We should have these rights, and more appropriately in a general section on the militia. I am in favor of the section as it has been amended at this time and opposed to Amendment No. 10. Moreover, I am ready to tackle 5 through 9 when we get to them.

THE CHAIRMAN: Is there any further discussion? The Chair recognizes Delegate Scanlan.

DELEGATE SCANLAN: I have a question of the sponsor of the amendment. Is it your intention by the amendment to leave it to the legislature to determine the circumstances under which the governor may call out the militia or to give the governor this power when in his judgment it is necessary? Or is it your intention to leave it to a combination, the legislature designating certain occasions and the executive having inherent right to call out the militia on other occasions, and if so, on what occasions?

THE CHAIRMAN: Delegate Fox.

DELEGATE FOX: I believe that the legislature would pass the necessary enabling act so that we would have a state militia and in that act I think it would set up the conditions under which and by whom the militia be called out. I believe it should be left to the legislature.

The United States Constitution says simply that the President shall be the commander-in-chief of the Army and that the Congress shall have the power to raise an Army and Navy and that is about all it says.

I do not see any reason we should get into greater detail in the Maryland Constitution than the federal Constitution does.

THE CHAIRMAN: Delegate Wheatley.

DELEGATE WHEATLEY: I rise in opposition to the amendment. I think Delegate Fox pointed out well that the federal Constitution is very brief in this regard. However, I would suggest that this is a dangerous precedent to establish for adopting or rejecting a given proposal.

If we follow this pattern, we would make no provision at all for our courts other than to say that the General Assembly may from time to time provide for a court system. We might carry this reasoning a step further into the field of local government and say that the General Assembly from time to time shall provide for local government.

I suggest that the reasons advanced by Delegate Schneider are much more apropos. We are structuring or attempting to structure the circumstances under which the governor may exercise this power and saying that he is the one to exercise it. I have been told that in other states the governor might have abused this power. I am sure it is possible in this State. I have been told that in other states the General Assembly might have abused this power and I am certain that this is possible in this State.

For that reason, I think we have an obligation to provide a structure just to give guidance although without being domineering.

I would also suggest that the reasons advanced by Delegate Schneider are very meaningful, that is that this proposal firmly establish that the military be under the control of the civilian population. Finally, I think it is very important to spell out in some broad detail, if I might use that contradiction, what the rights of civilians and military personnel are when it comes to judicial proceedings.

For that reason, I urge the adoption of this amendment.

THE CHAIRMAN: Is there any further discussion? Delegate Pullen. Delegate Wheatley.

DELEGATE WHEATLEY: I would like to correct my last statement for the record, if nothing else. That is to say that I very strongly urge that we defeat the proposed amendment.

THE CHAIRMAN: Delegate Pullen.

DELEGATE PULLEN: Mr. Chairman, I think this is a very important matter and I am a little concerned that we are moving away from the real purpose of the militia. It is true, sir, that the federal Constitution speaks but little of the establishment of the armed forces. However, I respectfully call attention to the fact that the President of the United States on more than one occasion has sent troops into places like Greece, Lebanon, and Vietnam