

The Supreme Court of the United States (in 13 Wheaton's Reports 28. *Marble vs. Mann*) has settled the point upon the Constitution of the Corresponding Clause of the Constitution of the United States as to the Control over the militia of the States given to the United States government. The Clause of the United States Constitution declares (Art. I, Sec. 8) that Congress shall have the power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, terms almost identical with the words of the Maryland Constitution.

The case just referred to is adjudged in the Supreme Court of the United States, arose upon the act of Congress passed in 1795, under this Constitutional Clause: that act giving to the President of the United States the power to "call forth the militia whenever the United States shall be invaded, or be in imminent danger of invasion." The Supreme Court decided the act to be Constitutional, and say that there is no ground for a doubt that Congress, under the words of the Constitution, has the power to provide for cases of imminent danger, as well as for cases where an invasion has actually taken place. Closing their judgment on this head with these remarks,

"In our opinion there is no ground for a doubt on this point even if it had been relied on, for the power to provide for repelling invasions includes the power to provide against the attempt and danger of invasion as the necessary and proper means to effectuate the object. One of the best means to repel invasion is to provide the requisite force for action, before the invader has himself reached the soil."

But that decision further determines that under that "act of Congress the President has 'exclusively' the authority to decide whether the 'emergency has arisen,' and that his decision is 'conclusive upon all other persons.' He is necessarily constituted the judge of the existence of the emergency in the first instance, and is bound to act according to his belief of the facts."

This was the unanimous decision of the judges of the Supreme Court of the United States. The Governor is, therefore, in our opinion, authorized to call out the militia to be ready for any of the exigencies in which under the quoted provisions of the Maryland Constitution, their services may be needed and his decision upon the question of an imminent danger of such an emergency binds the military authorities, and protects every individual who obeys the Governor's call.

On this head we need refer to no acts of assembly, because there are none which conflict with the views we present, and if any were in such conflict they would have to yield to the paramount rule of the Constitution, and the acts of assembly however, are but Cumulative, or in aid only of securing the protection