

was at any time ready to vote for an increase of it. He was willing also that he should be paid for the services performed by him as commander in chief.

He acknowledged, that the proceedings of the house of delegates, at the last session, were calculated to impress the council with a belief, that the law entitled the governor to the pay which had been allowed to him; but then, he said, the house had no right to expound the law. This was the duty of the council, and of the council only. He contended, that although the governor's services entitled him to the pay which he had received, yet the law did not allow it to him; and then went into a dry, dull, and excessively fatiguing argument, to prove that the commander in chief, though at the head of the militia, was no part of the militia. Upon this position, absurd as it was thought, he entirely relied, and distinctly admitted, and was at some pains to prove, that if the commander in chief was a part of the militia there could be no doubt that the payment was authorised by law. He resorted to his old favourite maxim, that *may means shall*, whence he inferred, and strenuously insisted, that the governor was thereto advised by his council, was, *nil nisi volens*, obliged to put on his military apparatus and command in person.

In answer to that part of the report which states that he himself was one of the committee of the last session, which in direct opposition to his speech, reported that the commander in chief was already entitled by law to pay, and that he agreed to that report, he observed, that when the chairman of the committee told him what report he was about to make, he (Mr. Mason) replied, that he was for making the governor the most liberal provision, and at the same time said, that in his opinion provision was already made by law for paying him for his military services—that he did not read the report before it was introduced, and having unfortunately lost his hearing, he did not understand it, when read by the clerk. He then most solemnly declared, that what passed between him and Mr. Lecompte, (before stated) was every thing he had said upon the subject.

Mr. Kilgour, of Montgomery, next occupied the floor in justification of the order of the executive.

He said, that he could not ascribe motives to men different from those by which they solemnly declared themselves to be actuated; but were it not for the repeated asseverations of Mr. Mason to the contrary, he should have considered the part acted by him at the last session, when taken in connexion with his conduct on the present occasion, as an insidious attempt to entrap the executive. However, as he is honest, charity perhaps requires us to believe him to be so. I will not, therefore give utterance to those feelings which the first view of this subject inspired. But, Mr. Speaker, there is not the same reason for extending this indulgence to the man in the other branch of the legislature, from whom these resolutions proceeded. They have not even assumed the virtue which they claim they have not. They have appeared before the public in their naked deformity. And although I feel no disposition to strip from the gentleman from Washington, the laurels which he has found it convenient to borrow, I certainly shall not look for others in order to decorate the honourable senate, since they are so well satisfied with being beheld in the point of view in which they deserve to be exhibited.

Mr. Kilgour then portrayed, in glowing colours, the magnanimity which had given birth to the resolutions of that honourable body, and drew a striking picture of the principal features by which they are characterised. He afterwards made a very sensible argument on the constitutional question before the house, in the course of which he remarked, that there would be about as much reason and propriety in making an argument to prove that the head was no part of a man's body, as in Mr. Mason's attempt, to show, that the commander in chief was no part of the militia. Mr. K. concluded with making a just and animated comparison between the characters of the executive, and of the men by whom they had been so rudely assailed.

During Mr. Kilgour's speech, he was several times called to order by Mr. Kell of Baltimore, and a Mr. Emory of Annapolis. The Speaker, however, with great independence and justice, declared that he was

not proceeding beyond the fair range of debate, and he must be permitted to proceed. An observation which was made by Mr. Thomas at an early period of his speech, effectually prevented these restless gentlemen from worrying him with similar interruptions.

Mr. K. was followed by Mr. Hayley of Somerset. He stated, (and spoke loud enough to be distinctly heard by Mr. Mason) that he was one of the committee which introduced the report at the last session, and that he introduced the resolutions which were referred to that committee. Immediately after their introduction, the gentleman from Washington, (Mr. Mason) called Mr. B. to him, and told him, that his resolutions were unnecessary, for that the law of 1811 had already provided for payment of all the militia officers, (of course the commander in chief) and in consequence of this opinion expressed by Mr. Mason, he was nominated one of the committee. This, said Mr. B. the gentleman must distinctly recollect, unless indeed his memory be as bad as his hearing. (N. B. Mr. Mason might here have blushed a little, but he was careful not to contradict this statement.)

Mr. B. pleasantly noticed the gentleman's argument, that *may means shall*, and that of course the governor when advised by his council, was compelled to take the command in person. Among other things said by him, in order to show how preposterous was the whole of this part of his speech, Mr. B. remarked, that at the last session of the Assembly, a law was passed declaring that every corporate body, and every individual, may remove obstructions in the river Susquehanna; now, said Mr. B. will the gentleman with his nice argument about may and shall tell me, that every citizen of Maryland and every corporate body is obliged by this little word *may*, to employ themselves in removing the obstructions in that river.

Mr. B. took occasion to remind the gentleman from Washington of his threats and predictions last year, upon the question relative to the Allegany election. The good sense and virtue of the people of Maryland had disappointed all the gentleman's expectations. The same good sense and virtue will again disappoint him.

Mr. B. having said thus much, quietly took his seat, very much to the relief of the gentleman from Washington, who had no wish to hear any more from any person, but most of all was unwilling to hear himself again. Without any further debate, the question was taken on Mr. Mason's amendment, and the same was negatived, by a large majority.

The report of the committee being then before the house, Mr. Neale of St. Mary's arose, and observed, that he had resolved not to form any opinion upon the subject, until he had heard what could be said in opposition to the conduct of the executive; that after listening to the arguments of the gentleman from Washington, his mind was satisfied of the correctness of the decision of the council. The argument of the gentleman he thought established its correctness. Mr. N. spoke at length, and with considerable ingenuity, to prove this.

Mr. Kell of Baltimore, next took the floor, and observed, that until he had heard the discussion of that day, he had been persuaded of the correctness and legality of the proceeding. Until this day he declared he had considered it perfectly correct. Mr. Mason's speech, however, had converted him. Mr. Kell took occasion to make known his great respect for the council, and his entire persuasion, that the members were influenced by the present motives. Mr. Kell also was not at all backward in making love to the governor, he had never known a man whom, upon so short an acquaintance, he so highly respected. He was at some pains to remove all blame from the executive, and accordingly laid the whole of it upon the house of delegates. The proceedings of the house last year, he said were calculated to mislead the council. They explicitly recognized the governor's right to the pay, which he had received, and no man of candour could deny it. Mr. Kell, however, ridiculed the idea, that the commander in chief was any part of the militia, and declared it would not be more absurd to say, that because a hat is on the head of a man it is therefore a part of the man. Mr. Kell indulged himself in a number of illustrations equally

apt, and arguments equally cogent, and as well calculated to convert Mr. Mason as the objections by Mr. Mason were to convert Mr. Kell.

Next arose Mr. Van Horn. But then it was soon obvious that Mr. Van Horn's object in rising was not so much to argue seriously any constitutional or legal question, as to satisfy the brilliant Mr. Mason, and the perspicuous Kell, how superlatively ridiculous and nonsensical had been their talk. Accordingly he proceeded. Before I came here, Mr. Speaker, I heard a terrible noise about the governor having received money unconstitutionally. I had understood that the governor was a major-general on the eastern shore, and had naturally concluded that it was paid to him for being major general on the eastern shore, while in fact he was our governor, residing in Annapolis. But when I came here I found, that at a time of great alarm, and no little danger too, was thought, the council had advised the governor to take the command in person of the militia, and had afterwards passed his pay roll, as well as the pay rolls of other militia officers; and it is this, it seems, about which we have heard so much noise! Now, said Mr. V. what is it for? On all hands, by every body here, and by none more explicitly than by the gentleman from Washington, it is admitted that the governor is or ought to be entitled to the money; and indeed if that gentleman could be indulged in his wishes, he would be allowed to receive still more—he tells us, it is a pitiful thing to give him so small a salary. Both the gentleman from Baltimore, and the gentleman from Washington, have spoken in terms of the highest respect of the members of the executive, and borne most decided testimony to the purity of their motives. What then is complained of? The law, it is just now found out, is most strangely defective, in not having made provision for the pay of the commander in chief while in service, and this order ought not to have passed till the law does authorise it. The question then is, does the law authorise an allowance of pay to the commander in chief, or is it really as defective as these two gentlemen represent it, and with regret too, as they think it ought to be otherwise.

Two gentlemen then tell us that there is no such authority in the law; but on the other side, and at least to balance these two gentlemen, we have the opinion of the executive, the opinion of the house of delegates last year, and the decided opinion of the gentleman from Washington, at that time, though he may since have found it convenient to change that opinion. The gentleman from Washington says, it is his opinion that the law did not authorise the payment of this money; but it is proved, and he admits, that he was of a different opinion last year. We will therefore suppose, that his opinion last year was worth as much, and no more, than his opinion now, and thus it may be made to go for nothing.

The gentleman from Baltimore also tells us, that he thinks now just as his friend from Washington thinks; but he acknowledges that a few hours ago he was of a very different opinion, and perhaps a few hours hence may return to his original opinion. The gentleman, therefore, must not take it amiss if I say that his first opinion may be as worthy of respect as his last. The house of delegates last year declared, that the law did authorise it, and some of the members of the last house of delegates seem to be delighted now with all this noise and clamour. Perhaps they agreed to the resolution last year in order to have the pleasure of clamouring against it this year. But we are now told, that the house of delegates last year had no right to express any opinion about it. It is not the business of the legislature to expound the law. Then whose business is it? Is it the business of the executive, say gentlemen. Very well, and the executive has not been unmindful of this its own business; it has expounded the law, and has decided (as the last house of delegates and the gentleman from Washington thought) that the law had already made provision for payment of this claim, and in conformity thereto has directed the payment of it. If any thing is to be complained of, it is not that the executive undertook to expound the law, for this was the duty of that body, and it was not to be avoided, but that the house last year undertook to expound it, when, as we are now told, the house of delegates

had no right to say a word about it. Now what do the very gentlemen, who tell us this, wish to persuade us to do? Why the very thing which they themselves have laboured to prove we had no right to do. And perhaps, misled by their eloquence, we were so express the opinion which they now choose to entertain, they would at the next session, change about to their old opinions, declare we had no power to decide as at their instance we had decided, or indeed to decide at all, and procure a reversal of the opinion expressed by this house, and a confirmation of the opinion expressed by the house at the last session, and all this too upon the ground that the house of delegates has no right to express any opinion at all.

Upon the whole, Mr. Speaker, I conclude that this noise is all without meaning. I cannot agree to pass a resolution like that which the senate has sent down to us, merely because I have no right to express any opinion at all; nor yet because the gentleman from Washington has changed his opinion since last year, nor because the gentleman from Baltimore has changed his opinion since this morning. I will not agree to say that the house of delegates last year, did a foolish thing, lest our successors should say that we were still more foolish nor resolve that the governor ought to refund money to which the law and the decision of the rightful authority entitled him, lest perchance it should hereafter be resolved that we had no right to pass any such resolve, and that a compliance with it would be a very foolish sort of a thing in his excellency.

Mr. Thomas next addressed the house. He said that this investigation had been commenced, for the purpose of diverting the attention of the people from the real and flagrant abuses which existed in the administration of the national government, to imaginary grievances in the regulation of state affairs. It was hoped, that the good people of Maryland, while employed in searching for these, would forget the oppressions under which they groaned, and direct that resentment, which was now universally felt for the authors of their country's misery, against men whose conduct had been altogether pure and unexceptionable. Notwithstanding all the appearances of candour which had been manifested, and the repeated and positive acknowledgments which had been made of the uprightness of the conduct of the executive, no man who had marked the course which this proceeding had taken, could entertain a doubt, but that it was intended to furnish a grand topic of party clamour during the next electioneering campaign. One circumstance was particularly worthy of observation. In the resolutions which passed the senate, and are intended to go forth to the people, the motives of the executive were openly arraigned. It was stated, that the services for which payment had been made to the governor were never performed.—Whereas, in this house where the subject had been thoroughly examined, and any calumny could be immediately refuted, nothing of the kind was pretended. All seemed disposed to do justice to the fidelity and diligence of the governor in the discharge of his military functions, and to the purity of the motives by which the council were actuated in making the appropriation. Mr. Mason himself had made these acknowledgments in the most clear and explicit manner. And yet, that gentleman, in the preamble and resolutions which he submitted, had, by insinuation, cast the most injurious aspersions on the executive. The only inference which could be drawn from these circumstances was, that the democratic party, collectively, were desirous of impressing on the people the belief of facts which no man among them would hazard his reputation by asserting as an individual. Would the people countenance such conduct; would they not frown with indignation on such a disingenuous and distasteful attempt to deceive them, and swindle from their confidence the men who had been guilty of it?

The conduct of these gentlemen, said Mr. Thomas, however extraordinary it may appear to those who have never mingled in the strife of party, was to be expected. I was satisfied from the commencement, that all the professions of candour and liberality which we have heard, were hollow and deceptive, and I trust that the vote which has been given this night

will teach the party, with whom it is my pride and pleasure to be what reliance is hereafter to be placed on similar professions. I have this effect, it will not be productive of advantages. An eligible knight in England, observed, that whenever he saw a Scotchman smile, he was struck by an involuntary impulse to shun himself from danger. This may be an illiberal national reflection, the experience of an active life, not a very long life, Mr. Speaker has taught me, whenever I see protestations of unusual moderation and frankness from the leaders of democracy, to be prepared for a display of an extraordinary degree of violence and perfidy.

Mr. Thomas then proceeded to an examination of the constitution of laws, and vindicated, with great ability, the proceedings of the council. He explained and enforced by the most conclusive reasoning the report of the committee, and presented several other luminous and impressive views of the subject. In the course of his argument, Mr. Thomas made the following observation, which though done with an imaginable good humour, did not, however, escape a certain degree of ridicule. It is impossible that the framers of our constitution could have intended to compel the governor to take the field in person, for as many of his duties are of a civil nature, they must necessarily have foreseen that men totally destitute of military talents would frequently be elevated to the station. To have required, then, persons of this description to lead our armies to battle would have been to adopt a provision that must involve us in inevitable ruin and disgrace. Most of the members in this house are fully qualified to perform all the duties of the office of governor. Even the humble individual who addresses you, or the member from Washington, would be competent to the task. And yet, Mr. Speaker, I fancy the either of us would make but a sorry figure, contending at the head of our troops, against General Ross, unless indeed we could find him, a good old jolly Falstaff did Ham Percy, ready killed to our hands.

After having convinced the understanding of every man who heard him of the propriety of the course which had been pursued by the executive, he proceeded, in a strain of manly and indignant eloquence, to arraign the conduct of those who had instituted the enquiry. He proposed them in the manner which they merited, for having insidiously endeavoured to give a vital stab to the reputation of men whom they dared not openly assail. He paid just tribute of applause to the patriotic and faithful services of the governor, and expressed his thorough conviction that the people would resent this ungrateful attempt to sully the fair fame of a hero of the revolution.

Mr. Thomas concluded, by replying to one of those who had talked of bringing the subject before the tribunal of the people, in the language of Brutus;

"There is no terror in thy threats. For we are arm'd so strong in liberty, That they pass by us as the idle wind, Which we respect not."

The discussion here terminated, and the question was taken on a resolution in the report of the committee, which received the sanction of two thirds of the house. Since this debate backstairs, backbiting and robbery, have been no more heard of in Maryland. These hideous spectacles which were said to be talking in triumph through the land, have entirely disappeared. They were laid by John Hancock Thomas, the officiating high priest in the temple of Maryland Federalism, and the subordinate ministers who so ably assisted in the performance of the ceremony. Even the democratic confederacy by whom they had been conjured up in order to disturb and to frighten the good people of the state, suffered them to depart without making an effort to maintain their dominion. Whether these necromancers were spell-bound by their own enchantments, or elevated by the awful thunder of truth is wholly unimportant. It is sufficient to know that the terrible phantoms have vanished in the ocean of obscurity, whence they were called forth, and that the magicians, who called them forth are now fast and speedily to follow.

The legislature of this state adjourned on day last, after passing 130 laws, for a list of which see first page. As has been done in several instances, the senate resolved, that highly approved of the conduct of the president in carrying on the war, and that the pride of Great Britain was humbled. It is to be regretted that the conduct of the governor and executive council of the state, in a series of inflammatory resolutions, gave rise to an animated debate in the house, a sketch of which will be seen in our preceding columns.

OFFICIAL.
WASHINGTON CITY, Feb. 4.
Copy of a letter from Major General Jackson, to the Secretary of War, dated
Head quarters, 7th Military District, camp, 4 miles below N. Orleans, Jan. 13.

At such a crisis I conceive it my duty to keep you constantly advised of my situation.
On the 10th inst. I forwarded you an account of the bold attempt made by the enemy on the morning of the 11th to take possession of my works, and of the severe repulse which he met with. That report having been sent by the mail which crosses the Lake, may possibly have been misapprehended, for which reason, I think it the more necessary briefly to repeat the substance of it.

Early on the morning of the 8th, the enemy, having been actively employed the two preceding days in making preparations for a storm advanced two strong columns on my right and left. They were received, however with a firmness, which, it seems, they little expected, and which defeated all their hopes. My men, undisturbed by their approach, which indeed they had long anxiously wished for, opened upon them a fire so liberate and certain as rendered their scaling ladders and fascines, as well as their more direct implements of warfare perfectly useless. Forwards of an hour it was continued with a boldness of which there have been but few instances, perhaps in any country.

In justice to the enemy it must be said, they withstood it as long as could have been expected from the most determined bravery. At length, however, when all prospect of success became hopeless, they fled in confusion from the field—leaving it covered with their dead and wounded. Their loss was immense. I had first computed it at 1500; but it was since ascertained to have been much greater. Upon information, which is believed to be correct, Colonel Payne, the Inspector General, reports it to be in the total 2600. His report I enclose you. My loss was considerable; being only 77 killed and 66 wounded. Such a disproportion of loss, when we consider the number and the kind of troops engaged, is, I know excite astonishment, and may but every where, be fully credited; yet I am perfectly satisfied that the account is not exaggerated on the one part, nor underrated on the other.

The enemy having hastily quitted the position which they had gained possession of on the other side of the river, and we having immediately returned to it, both armies at present occupy their former positions. Whether, after the severe losses he sustained, he is preparing to return to his shipping, or to make still higher efforts to attain his first object, I do not pretend to determine. It comes me to act as though the latter were his intention. One thing, however, seems certain, that if he will calculate on effecting what he has hitherto been unable to accomplish, he must expect considerable reinforcements; as the force with which he landed must, undoubtedly, be diminished by at least 3000. Besides the loss which he sustained on the night of the 23d ult., which is estimated at 400, he cannot have suffered less between that period and the morning of the 8th inst. than 3000—having with him some 8000 men. It is general agreed, to drive him from our position, and that having been continual cannoning and skirmishing, during

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