

W 46 Office Docket

9 sides

Mayor & City Council
of Baltimore & others

vs

Charles Howard & others

Bowie B. G.

Goldsmith & J.

Filed Dec 11th 1863.

The Mayor & City Council
of Baltimore and Others

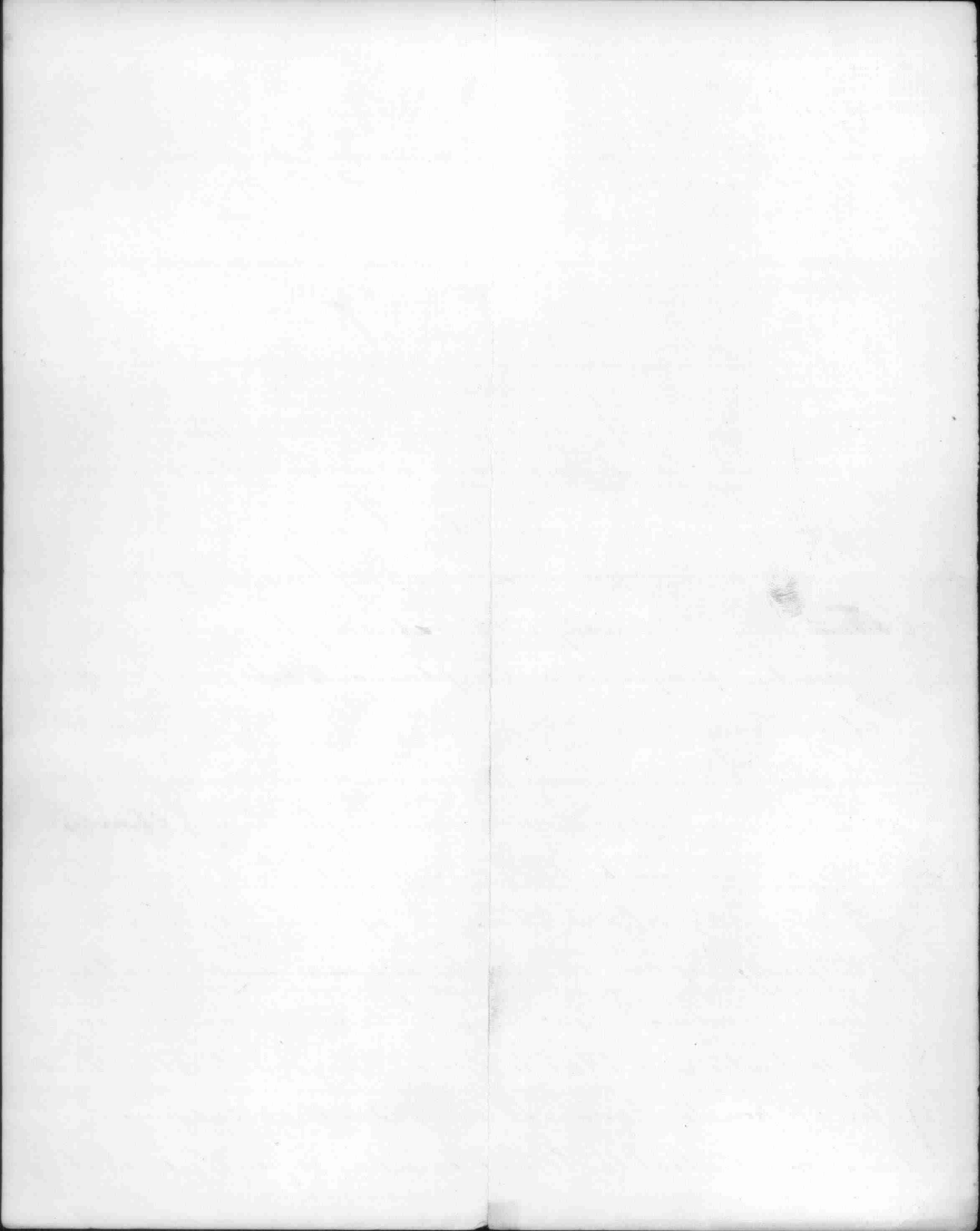
Court of Appeals

June Term 1863

vs
Charles Howard and Others

After a careful investigation of the proceedings in this Cause, we Concur in the view taken by the Judge of the Circuit Court, and for the reasons assigned in the Opinion delivered by him, the order of the Seventh day of February 1862, refusing to grant the injunction prayed for in Complainants bill, will be affirmed.

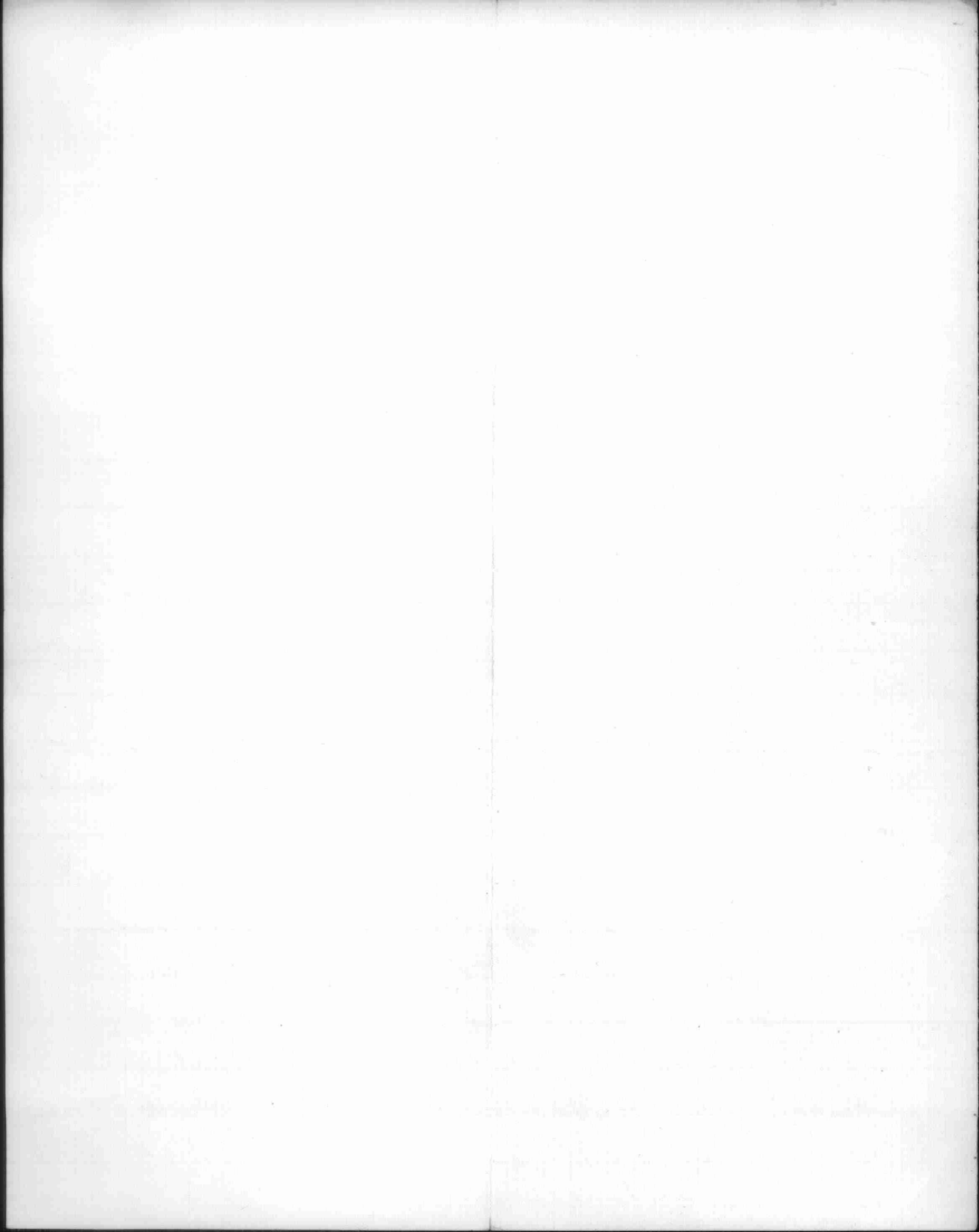
The Counsel for the respective parties having agreed upon a statement of facts in reference to the Claim of Charles D. Hinks, arising from the Check mentioned in the Statement; and having requested this Court to express their opinion thereon for the purpose of avoiding further ~~and unnecessary~~ litigation; we have accordingly considered the same, and are of opinion that Mr Hinks is entitled to demand payment of the Check referred to, from the Farmers & Planters Bank of Baltimore, it being conceded that the Police Board had deposited in that



Bank sufficient funds to meet it, and that there was no objection to the form of the Check or that it was not drawn in Conformity with the regulations of the Police Board in making their disbursements.

By the third section of the 7th Ch of the Act of 1860 a Board of Police to be called "the Board of Police of the City of Baltimore" was constituted to consist of four persons; and their salaries were prescribed by the same section. By the fourth section, the Appellies were appointed the first Commissioners. By the 15th Section, an authority was given to the Police Board to Estimate what sums of money would be necessary for Each fiscal year to enable them to discharge the duties imposed on them; and the Mayor and City Council, upon being certified of the Estimated amount, was required to raise the same by taxation to be denominated the Police Tax. This fund, when received by the Police Board, to be held, appropriated and disbursed by them in their discretion for the purpose of discharging the duties by Law imposed on them.

As a Board of State officers possessing the power, amongst other powers to make disbursements, they could not be disturbed or their power suspended, Except by the Legislature -



The Mayor and City Council
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Court of Appeals

December Term 1863

The appeal in this cause standing ready for hearing was argued by Counsel for the parties, and the proceedings have since been considered.

And it appearing to this Court that there is no Error in the order of the Circuit Court for Baltimore City dated on the seventh day of February 1862 from which the said appeal was taken -

It is thereupon this Eleventh day of December in the year 1863 by the Court of Appeals of Maryland, adjudged ordered and decreed that the aforesaid ^{now} of the Circuit Court for Baltimore City be, and the same is hereby affirmed; and that the appellants pay to the appellees their costs on this appeal, to be taxed by the clerk of this Court -

Rich^d J. Bowie

Jas. L. Santob

Ben J. Goldborough

The Mayor & City Council
of Baltimore. -

^{vs}
Charles Howard & others

Deem

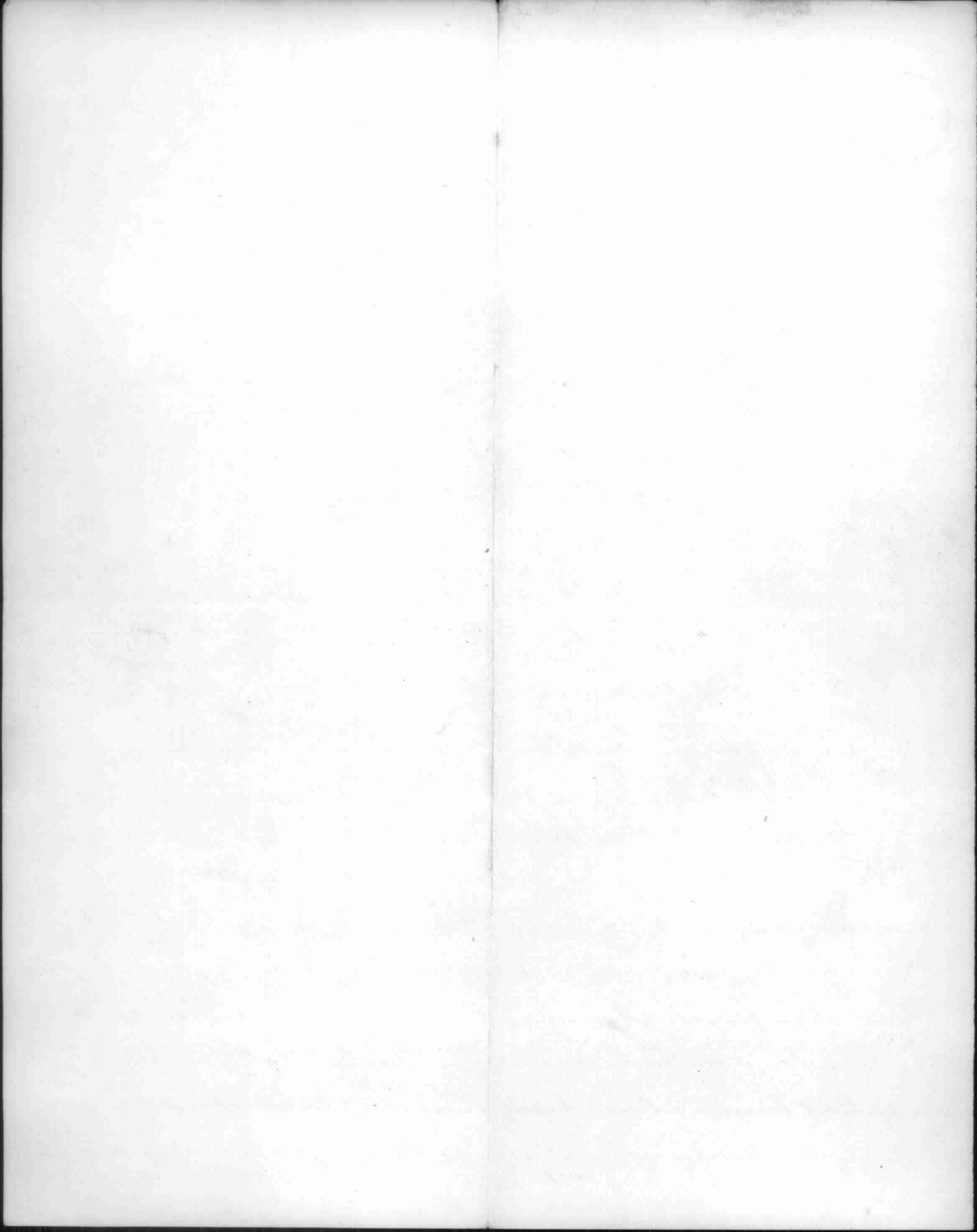
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Whatever acts were therefore done within the sphere of their duty, it cannot be questioned that the disbursement of a portion of the fund for the payment of the salary of one of the Board, as in this case, was a legal exercise of their official duty.

It is conceded that the check alluded to, was given to Mr Hinks on the sixth day of February 1862 and it appears that the appellants were not removed or their powers revoked until the 12th day of February 1862 when the act was passed and took effect, creating the new Police Board.

The check given to Mr Hinks and accepted by him in payment of his salary, must be held as a legal appropriation and disbursement, concluding, to that extent, the Board from any further control over the amount thus appropriated.

But it is contended by the appellants, that in the interval between the time of the organization of the appellants and their removal under the provisions of the act of 1862 Ch 131 and at the time when this check was given, they were displaced and their functions suspended by the intervention of a Police Force in the service of the United States, in the City of Baltimore; and being thus displaced, they were not entitled to receive their salaries though provided by Law.



We do not Concern in this view of the Effect of their displacement and suspension of their functions - on the contrary, though displaced by a force to which they yielded and could not resist, their powers and rights under their organization were still preserved and they were Amenable for any dereliction of official duty, except, in so far as they were Excused by Uncontrollable Events.

They were a Board of State Officers, strictly within the jurisdiction of the State Authorities, and we, in determining their rights and obligations, have no other guide than the Statute Law of the State applicable to this Case and to the parties presenting this appeal for our review -

Order affirmed with Costs
to Appellus -