

ber in chief of the militia of this state, from the 20th April to the 17th September last, as per account passed and filed." That on the same day the governor drew an order on the treasurer of the Western Shore in his own favour, which was countersigned by the auditor, and is in the words and figures following: " \$ 1643 63: Annapolis, February 1st, 1814. Ordered, that the treasurer of the Western Shore pay to Levin Winder, sixteen hundred and forty three dollars and sixty-three cents, for his pay as commander in chief, from the twentieth day of April to the seventeenth of September last, as per account passed and filed, signed Levin Winder, countersigned Thomas Harrison, auditor," upon which order the treasurer of the Western Shore did pay to the governor the sum therein specified, over and above the sum of one thousand pounds, as his salary as governor from Nov 1812 to Nov 1813. And whereas by an order of this house of Delegates, made on the 20th day of this month, January 1815, it was ordered, that the executive of Maryland be requested to state particularly and fully their reasons for issuing that order to the treasurer, and also to state the act of assembly, resolution or authority under which that order was by them given, and that they lay before this house the record of their proceedings for the year 1813, Which request has never been answered or complied with, it becomes therefore the duty of this house to act upon the subject with the information it has thereon.

By an act of November session 1785, chap 28, entitled, "an act to ascertain and establish a permanent salary to the governor," it is provided that the governor shall receive at the rate of one thousand pounds current money for his salary, to be paid to him quarterly. By the facts disclosed it is evident that the governor has received of the states money for his services for one year from November 1812 to November 1813, the sum of \$ 1643 63, over and above the salary fixed by the act of 1785, and it is the duty of this house to enquire whether that sum has been legally and rightfully paid to him, and if it has not been legally and rightfully paid to him, to take the necessary measures immediately to ensure its reimbursement to the state and to prevent a similar abuse future. By the 33d section of the constitution before quoted the governor is made *ex officio* commander in chief of the militia of Maryland, and is so advised by the council, is bound to command them in person, and unless he is so advised, is by the constitution prohibited to command in person. It results then undeniably that when the governor commands the militia in person, he exercises a part of the duties of his office imposed upon him by the constitution. It cannot be necessary to prove by argument that a public law which gives to a public officer a salary as a compensation for his time and trouble devoted to the duties of his office, embraces all the duties of that office, and not any specific portion of them. If these positions be just it necessarily follows, that the salary of £1000 pr annum, given by the act of 1785 to the governor, is a full compensation for all the services which he can be rightfully called upon to perform, or can constitutionally perform, unless there can be shewn to exist some subsequent law to increase his compensation. The proceedings of the house of Delegates at their last session, present themselves next for consideration.

The resolutions submitted to the house on the 3d January 1814, contain a clear, and specific proposition to give to the governor an additional compensation for his services, in case he had been, or should be called to command the militia in person. Had these resolutions been adopted by the house of Delegates, without any reference to a committee, this act would have given no right to the governor to an additional compensation for his services. Because by our constitution the public money cannot be paid away, or appropriated to any purpose, without a concurrent vote of both branches of the Legislature. If then an adoption of these resolutions by the house of Delegates could not justify the payment of this money, it would be a useless waste of time to prove that no report of a committee of this house upon those resolutions, though approved and adopted by the house could justify that payment. If it be urged that this report is evidence of the opinion of this house, that a law pre-existed to entitle the governor to this pay, and these reasons, it is answered that it is the province of this house in conjunction with the other branch of the Legislature to legislate, and not to expound laws; but the exposition of one branch of the Legislature, without the concurrence of the other, is a slender foundation indeed whereupon to presume a law. The executive council of the state are men capable of expounding the law for themselves, and must be held responsible to the state for a sound and just exposition. But the report expresses no opinion as to the pre-existence of a law that entitled the governor to pay and rations, if called to command the militia in person; therefore,

*Resolved*, That the governor was not entitled to receive from this state the aforesaid sum of \$ 1643 63 for his pay and rations as commander in chief of the militia of this state, from the 20th April to the 17th September, or any other sum in addition to his salary as governor, fixed and ascertained by the act of 1785, and that the receipt by the governor of the said sum of \$ 1643 63 in February 1814, from the treasury of the state was illegal.

*Resolved*, That the governor be requested forthwith to refund to this state, and pay to the treasurer of the Western Shore, the said sum of \$ 1643 63, which he has illegally and improperly received in manner before stated.

The clerk of the senate delivers the resolution in favor of Caleb Stewart and Henry Thompson: The resolution in favor of the Reverend Joseph Wyatt. And the resolution making an appropriation for the penitentiary, severally endorsed, assented from: The resolution in favor of the militia accountant for the Eastern Shore, endorsed, dissented from. The resolution appointing commissioners to examine Choptank bridge, endorsed, "assented to with the proposed amendments;" which amendments were read.

Also a bill entitled, an act to alter the sixth section of the constitution and form of government, passed by the senate January 28. Which was read. Also a bill entitled, a supplement to the act entitled, an act to provide for the settlement of claims arising from the past or future employment of the militia of this state, passed by the senate January 28. Which was read the first and second time by special order, and passed. The bill entitled, an additional supplement to the act