

L. H. J.  
Liber No. 50  
April 17

vides how they shall be paid: But it gives no Power to the Governor or Commander in Chief, or any Person Commissioned by him, to Compel the Militia of one County to March into another; nor does it Oblige the Militia to Obey the Commands of their Officers, or subject them to any Penalty for Disobedience. In a subsequent Clause of the same Law, there is a very severe Penalty laid upon those Persons that shall, upon any Foreign Invasion, obstinately refuse to appear and serve in Arms for the necessary Defence of this Province; but, we conceive, it's Clear they are not Punishable, by that Clause, for Refusing to serve in Arms upon any other Occasion than upon an actual Foreign Invasion, and then, no longer than until the Invaders shall be Repelled; for when that is done, the Country cannot be said to be under an Invasion; and that Clause is the only one which inflicts any Penalty upon a Refusal to appear and serve in Arms.

p. 44 When the Militia of Queen-Anne's and Kent Counties were forced to leave their Habitations and Families, and those of Queen-Anne's were transported across the Bay, and Marched to the Western Frontiers, this Province was not under any Invasion; nor had there been even any Incursions made by the Enemy for a long Time before their March, that we have heard of: Add to this, that our good Friends the Cherokees, with some of our own People, were then, as we are informed, on an Excursion against the Enemy. But, upon a Supposition there had been an Incursion of a few Indians at the Time the Militia of those Counties marched (which we cannot learn was the Case) To what End or Purpose could they be ordered to march? It could not be to repel a foreign Invasion, for there was not, at that Time, even any Report of one; and it is well known to your Excellency, that the small Parties of our Enemies, that have heretofore made Incursions into this Province, have always departed within a very few Hours after they have done their intended Mischief; even so soon that the Rangers that have been paid by this Province, for the Defence and Protection of the Frontier Inhabitants, have either not been able to overtake them, or have not complied with their Duty in making a speedy and proper Pursuit. How then could it be necessary or lawful to march those Militia of Queen Anne's and Kent Counties to the Western Frontier, if there had been such Incursions of our Enemies, since such March could not possibly tend to repel, what perhaps your Excellency may think proper to call an Invasion! as such Invasion must cease to exist long before they could possibly arrive at the Place, from whence the Enemy were to be repelled.

We really are at a Loss to conceive what could induce your Excellency to be of Opinion, that you had a Power, under that Law, to march the Militia beforementioned, unless you supposed you had an Authority under it, to march the Militia of this Province whenever and wheresoever you pleased, and that in order to prevent, as